



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

EIGHTEENTH CONGRESS  
*First Regular Session*

HOUSE BILL NO. 2263



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Introduced by  
REPRESENTATIVE PANTALEON D. ALVAREZ

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AN ACT  
INSTITUTING ABSOLUTE DIVORCE AND DISSOLUTION  
OF MARRIAGE IN THE PHILIPPINES

EXPLANATORY NOTE:

On July 24, 2017, the undersigned filed a bill titled "*An Act Providing For Grounds For The Dissolution Of A Marriage*" which was then docketed as House Bill No. 6027.

Said Bill was then referred to the appropriate Committee and, after much deliberations, the provisions were incorporated with House Bill No. 7303, the amended version of the latter became the substitute bill that was approved on third reading by the House of Representatives and was then transmitted to the Senate of the Philippines on March 20, 2018.

The version of the bill that was approved on third reading and transmitted to the Senate is herein reproduced, refiled, and its passage is earnestly sought.

  
PANTALEON D. ALVAREZ



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**OF MARRIAGE IN THE PHILIPPINES**

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

SECTION 1. *Short Title.* – This Act shall be known as the “Absolute Divorce Act of 2018”.

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 shall also give the opportunity to spouses in irremediably 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:

(a) Absolute divorce shall be judicially decreed after the fact of an

irremediably broken marital union or a marriage that is defective from the start;

(b) 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;

(c) 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;

(d) 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;

(e) A six (6)-month cooling-off period is instituted after the filing of a petition for absolute divorce as a final attempt for reconciliation of concerned spouses;

(f) A divorce decree shall include provisions for the care and custody of children, protection of their legitime, termination and liquidation of the conjugal partnership of gains or the absolute community, and alimony for the petitioner; and

(g) Even as absolute divorce is instituted, the State has the role of strengthening marriage and family life by undertaking relevant prenuptial and post-matrimonial programs and activities.

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

(a) *Abandonment* refers to the act of leaving 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 a habitual or excessive drinking of alcoholic liquor, often resulting in impaired social functioning and 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 a second or subsequent marriage contracted before the former marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings;

(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 a 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;

(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 No. 8369 or the "Family Courts Act of 1997", which shall exercise jurisdiction over both 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 Five million pesos (P5,000,000.00), whether singly or jointly;

(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 from which they cannot disinherit the children without sufficient legal cause;

(s) *Marital infidelity* refers to the unfaithfulness of a spouse during the marriage;

(t) *Overseas Filipino worker (OFW) or migrant worker* 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 or as defined under Section 3 of Republic Act No. 8042, as amended by Republic Act No. 10022, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995";

(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; and



(y) *Transsexual* refers to a person who emotionally and psychologically feels that one belongs to the opposite sex, and who opts 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:

(1) Physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;

(2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;

(3) 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;

(4) Final judgment sentencing the respondent to imprisonment of more than six (6) years, even if pardoned;

(5) Drug addiction or habitual alcoholism or chronic gambling of the respondent;

(6) Homosexuality of any of the spouses;

(7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;

(8) 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;

(9) Attempt by the respondent against the life of the petitioner, a common

child or a child of the petitioner; and

(10) Abandonment of petitioner and/or their children under the custody of the petitioner by respondent without justifiable cause for more than one (1) 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 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; and

(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 existed either 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; and

(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.

*SEC. 6. Prescription of Action.* - A petition for absolute divorce and dissolution of marriage shall be filed with the proper court by the interested party or parties within five (5) years from the accrual of the cause of action.

*SEC. 7. 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 petitioners 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 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 a 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.

(h) Parties with pending cases in court for annulment of marriage under Article 45 or legal separation under Article 55 or nullification of marriage under Article 36 of the Family Code of the Philippines shall be allowed to amend and convert their respective petitions to one for absolute divorce or dissolution of marriage.

SEC. 8. *Overseas Filipino Workers (OFWs).* – Petitioners who are OFWs shall be given priority 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. 9. *Summary Judicial Proceedings.* – The following grounds for absolute divorce may be subject to summary judicial proceeding as defined in Section 4(w) of this Act:

- (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.

SEC. 10. *Mandatory Six (6)-Month Cooling-off Period.* – Except for grounds under summary judicial proceedings, under letters (a) to (e) in the preceding Section 9, the proper court shall not start the trial of a petition for absolute divorce before the expiration of a six (6)-month cooling-off period after the filing of the petition during which the court shall exercise all efforts to reunite and reconcile the parties and the court shall await the submission of the report of the Office of the Public Prosecutor as provided for under Section 7(g).

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, otherwise known as the “Anti-Violence Against Women and Their Children Act of 2004” or attempt against the life of the other spouse or a common child or a child of the petitioner.

SEC. 11. *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 excluding the paraphernal or exclusive properties of either spouse. 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 not exceed three (3) years 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) 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 on a monthly basis alimony. The necessity of alimony and the amount shall be determined by the court, taking into consideration all relevant factors;

(f) 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;

(g) 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; and

(h) The legitimate and adopted children of divorced parents shall retain their legal status and legitimacy. A child conceived or born within three hundred (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. 12. *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. 13. *Finality of Decision or Decree.* – Except for decisions or decrees in summary proceedings which shall be immediately executory, all other decisions or decrees on absolute divorce or dissolution of marriage shall be final and executory after fifteen (15) days from the receipt by the concerned party or parties of the principal decision or decree or the resolution denying a motion for reconsideration which is filed within the fifteen (15)-day reglementary period, except when an appeal to the Court of Appeals is filed before the decision or decree becomes final.

SEC. 14. *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 (P200,000.00).

Any parent in default of providing the required child support under this Act shall be imposed stiff fines and contempt of court.

SEC. 15. *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.

SEC. 16. *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. 17. *Separability Clause.* – If any part or provision of this Act is held invalid or unconstitutional, the other provisions not affected hereby shall remain in force and effect.

SEC. 18. *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. 19. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in any newspaper of general circulation.

Approved,