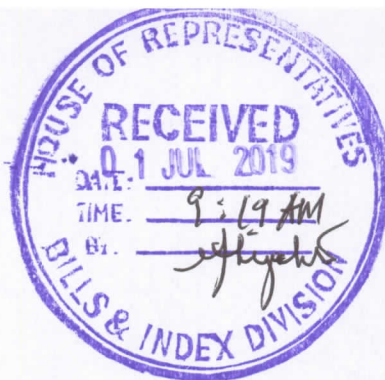


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

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

EIGHTEENTH CONGRESS
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0111
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:*

1 **SECTION 1.** Article 14 of Executive Order 209 is hereby amended to read as follows:
2

3 Article 14. In case either or both of the contracting parties [not having been
4 emancipated by a previous marriage,] are between the ages of eighteen and twenty-
5 one, they shall, in addition to the requirements of the preceding articles, exhibit to
6 the local civil registrar, the consent to their marriage of [their father, mother,
7 surviving parent], EITHER PARENT, or guardian, or [persons] THE PERSON WHO
8 HAS [having] legal charge of them, AS PROVIDED UNDER THIS CODE AND OTHER
9 RELEVANT LAWS, in the order mentioned. Such consent shall be manifested in
10 writing by the interested party, who personally appears before the proper local civil
11 registrar, or in the form of an affidavit made in the presence of two witnesses and
12 attested before any official authorized by law to administer oaths. The personal
13 manifestation shall be recorded in both applications for marriage license, and the
14 affidavit, if one is executed instead, shall be attached to said applications.
15

16 **SECTION 2.** Article 96 of Executive Order 209 is hereby amended to read as follows:
17

18 Article 96. The administration and enjoyment of the community property
19 shall belong to both spouses jointly. ANY ACT OF ADMINISTRATION BY EITHER
20 SPOUSE WITHOUT THE CONSENT OF THE OTHER SHALL BE UNENFORCEABLE
21 UNTIL IT IS SUBSEQUENTLY RATIFIED BY THE NON-CONSENTING SPOUSE. In case
22 of disagreement, the [husband's decision shall prevail, subject to] SPOUSES SHALL
23 MAKE EARNEST EFFORTS TO SETTLE THEIR DIFFERENCES, PROVIDED THAT
24 SHOULD THE SPOUSES FAIL TO ENTER INTO A COMPROMISE, EITHER SPOUSE
25 SHALL HAVE recourse to the court [by the wife] for proper remedy IN A SUMMARY
26 PROCEEDING, which must be availed of within five years from the date [of] the
27 contract WAS ENTERED INTO BY THE PARTIES THERETO, OR UPON KNOWLEDGE
28 OF THE NON-CONSENTING SPOUSE, WHICHEVER COMES LATER [implementing
29 such decision], THE COURT, IN DECIDING THE CASE, SHALL CONSIDER THE BEST
30 INTEREST OF THE FAMILY. DAMAGES AND EXPENSES OF LITIGATION WHICH DID
31 NOT REDOUND TO THE BENEFIT OF THE FAMILY SHALL BE BORNE BY THE
32 CONTRACTING SPOUSE AND SHALL NOT BE CHARGED TO THE COMMUNITY
33 PROPERTY.
34

35 In the event that one spouse is incapacitated or otherwise unable to
36 participate in the administration of the common properties, the other spouse may
37 assume sole powers of administration. These powers do not include disposition or
38 encumbrance without authority of the court or the written consent of the other
39 spouse. In the absence of such authority or consent, the disposition or encumbrance
40 shall be void. However, the transaction shall be construed as a continuing offer on
41 the part of the consenting spouse and the third person, and may be perfected as a
42 binding contract upon the [acceptance] RATIFICATION by the other spouse or
43 authorization by the court before the offer is withdrawn by either or both offerors.
44

45 **SECTION 3.** Article 124 of Executive Order No. 209 is hereby amended to read as
46 follows:
47

48 Article 124. The administration and enjoyment of the conjugal partnership
49 shall belong to both spouses jointly. ANY ACT OF ADMINISTRATION BY EITHER
50 SPOUSE WITHOUT THE CONSENT OF THE OTHER SHALL BE UNENFORCEABLE
51 UNTIL IT IS SUBSEQUENTLY RATIFIED BY THE NON-CONSENTING SPOUSE. In case
52 of disagreement, the [husband's decision shall prevail, subject to] SPOUSES SHALL
53 MAKE EARNEST EFFORT TO SETTLE THEIR DIFFERENCES, PROVIDED THAT
54 SHOULD THE SPOUSES FAIL TO ENTER INTO A COMPROMISE, EITHER SPOUSE
55 SHALL HAVE recourse to the court [by the wife] for proper remedy IN A SUMMARY
56 PROCEEDING, which must be availed of within five years form the date [of] the
57 contract WAS ENTERED BY THE PARTIES THERETO, OR UPON KNOWLEDGE OF
58 THE NON-CONSENTING SPOUSE, WHICHEVER COMES LATER [implementing such
59 decision]. THE COURT, IN DECIDING THE CASE, SHALL CONSIDER THE BEST
60 INTEREST OF THE FAMILY. DAMAGES AND EXPENSES OF LITIGATION WHICH DID
61 NOT REDOUND TO THE BENEFIT OF THE FAMILY SHALL BE BORNE BY THE
62 CONTRACTING SPOUSE AND SHALL NOT BE CHARGED TO THE COMMUNITY
63 PROPERTY.
64

65 In the event that one spouse is incapacitated or otherwise unable to
66 participate in the administration of the conjugal properties, the other spouse may
67 assume sole powers of administration. These powers do not include disposition or
68 encumbrance without authority of the court or the written consent of the other
69 spouse. In the absence of such authority or consent, the disposition or encumbrance
70 shall be void. However, the transaction shall be construed as a continuing offer on
71 the part of the consenting spouse and the third person, and may be perfected as a
72 binding contract upon the [acceptance] RATIFICATION by the other spouse or
73 authorization by the court before the offer is withdrawn by either or both offerors.
74

75 **SECTION 4.** Article 211 of Executive Order No. 209 is hereby amended to read as
76 follows:
77

78 Article 211. The father and mother shall jointly exercise parental authority
79 over the persons of their common children. In case of disagreement, the PARENTS
80 SHALL MAKE EARNEST EFFORTS TO SETTLE THEIR DIFFERENCES, TAKING INTO
81 CONSIDERATION THE BEST INTEREST OF THE CHILD, PROVIDED THAT SHOULD
82 THEY FAIL TO ENTER INTO A COMPROMISE, EITHER PARENT SHALL HAVE
83 RECOURSE TO THE COURT FOR PROPER REMEDY [father's decision shall prevail,
84 unless there is a judicial order to the contrary].
85

86 Children shall always observe respect and reverence towards their parents
87 and are obliged to obey them as long as the children are under parental authority.
88

89 **SECTION 5.** Article 225 of Executive Order No. 209 is hereby amended to read as
90 follows:

91
92 Article 225. The father and the mother shall jointly exercise legal
93 guardianship over the property of [the unemancipated common] THEIR MINOR
94 child without the necessity of a court appointment. ANY EXERCISE OF
95 GUARDIANSHIP BY EITHER PARENT WITHOUT THE CONSENT OF THE OTHER
96 SHALL BE UNENFORCEABLE, UNTIL IT IS SUBSEQUENTLY RATIFIED BY THE NON-
97 CONSENTING PARENT. In case of disagreement, [the father's decision shall prevail,
98 unless there is a judicial order to the contrary.] EITHER PARENT SHALL HAVE
99 RECOURSE TO THE COURT WITHIN FIVE (5) YEARS FROM THE DATE THE
100 CONTRACT WAS ENTERED INTO BY THE PARTIES THERETO, OR UPON
101 KNOWLEDGE OF THE NON-CONSENTING PARENT, WHICHEVER COMES LATER.
102 THE COURT, IN DECIDING THE CASE, SHALL TAKE INTO CONSIDERATION THE
103 BEST INTEREST OF THE MINOR CHILD. DAMAGES AND EXPENSES OF LITIGATION
104 WHICH DID NOT REDOUND TO THE BENEFIT OF THE MINOR CHILD SHALL BE
105 BORNE BY THE CONTRACTING PARENT AND SHALL NOT BE CHARGED TO THE
106 PROPERTY OF THE MINOR CHILD.

107
108 Where the market value of the property or the annual income of the
109 MINOR child exceeds P50,000, the parent concerned shall be required to furnish a
110 bond in such amount as the court may determine, but not less than ten *per centum*
111 (10%) of the value of the property or annual income, to guarantee the performance
112 of the obligations prescribed for general guardians.

113
114 A verified petition for approval of the bond shall be filed in the proper court
115 of the place where the MINOR child resides, or, if the MINOR child resides in a
116 foreign country, in the proper court of the place where the property or any part
117 thereof is situated.

118
119 The petition shall be docketed as a summary special proceeding in which all
120 incidents and issues regarding the performance of the obligations referred to in the
121 second paragraph of this Article shall be heard and resolved.

122
123 The ordinary rules on guardianship shall be merely suppletory except when
124 the MINOR child under substitute parental authority, or the guardian is a stranger,
125 or a parent has remarried, in which case the ordinary rules on guardianship shall
126 apply.

127
128 **SECTION 6.** Separability Clause. - If any provision of this Act is found
129 unconstitutional or invalid, the other provisions not affected by such declaration
130 shall remain in full force and effect.

131
132 **SECTION 7.** Repealing Clause - All laws, decrees, executive orders, presidential
133 issuances and other administrative rules and regulations or parts thereof which are
134 inconsistent with this Act are hereby repealed, amended or modified accordingly.

135
136 **SECTION 8.** Effectivity - This Act shall take effective fifteen (15) days after its
137 publication in at least two (2) national newspapers of general circulation.

Approved,