



HOUSE OF REPRESENTATIVES

H. No. 7303

BY REPRESENTATIVES LAGMAN, BARBERS, DE JESUS, BROSAS, BAGUILAT, BATOCABE, CASILAO, CASTRO (F.L.), CATAMCO, CAYETANO, ELAGO, GARCIA (G.), GO (A.C.), ALVAREZ (P.), TINIO, ZARATE, BELMONTE (F.), BAG-AO, LEACHON, BULUT-BEGTANG, NIETO, BELMONTE (R.), VELASCO-CATERA AND ROQUE (H.), PER COMMITTEE REPORT NO. 640

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

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

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

3 SEC. 2. *Declaration of Policy.* – While the State continues to
4 protect and preserve marriage as a social institution and as the
5 foundation of the family, it shall also give the opportunity to
6 spouses in irremediably failed marriages to secure an absolute
7 divorce decree under limited grounds and well-defined judicial
8 procedures to terminate a continuing dysfunction of a long broken
9 marriage; save the children from the pain, stress, and agony
10 consequent to their parents’ constant marital clashes; and grant the

1 divorced spouses the right to marry again for another chance to
2 achieve marital bliss.

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

5 (a) Absolute divorce shall be judicially decreed after the fact
6 of an irremediably broken marital union or a marriage that is
7 defective from the start;

8 (b) The State shall assure that the court proceedings for the
9 grant of absolute divorce shall be affordable and inexpensive,
10 particularly for court-assisted litigants or petitioners;

11 (c) Concerned spouses have the option to file for absolute
12 divorce under this Act or seek legal separation, annulment of
13 marriage or nullification of marriage under the pertinent provisions
14 of Executive Order No. 209, otherwise known as the Family Code of
15 the Philippines;

16 (d) The option of absolute divorce is a pro-woman legislation
17 because, in most cases, it is the wife who is entitled to a divorce as a
18 liberation from an abusive relationship and to help her regain
19 dignity and self-esteem;

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

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

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

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

5 (a) *Abandonment* refers to the act of leaving of a husband or
6 wife from the conjugal home without justifiable cause and with a
7 deliberate intention of creating a perpetual separation. The
8 desertion amounts to an absolute cessation of marital relations,
9 rights and duties;

10 (b) *Absolute divorce* refers to the separation between married
11 couples that is total and final where the husband and wife return to
12 their status of being single with the right to contract marriage
13 again;

14 (c) *Alcoholism* refers to a habitual or excessive drinking of
15 alcoholic liquor, often resulting in impaired social functioning and
16 damage to the liver, heart and nervous system;

17 (d) *Alimony* refers to an allowance for support made under
18 court order to a divorced person by the former spouse, usually the
19 main financial provider during the marriage;

20 (e) *Bigamous marriage* refers to a second or subsequent
21 marriage contracted before the former marriage has been legally
22 dissolved, or before the absent spouse has been declared
23 presumptively dead by means of a judgment rendered in the proper
24 proceedings;

25 (f) *Child* refers to a descendant of the first degree by birth,
26 and shall include an offspring by legal adoption or one whose
27 custody and care is judicially decreed to be given to a guardian;

1 (g) *Child custody* refers to the parental authority and care of
2 a child as decreed by a competent court when the parents of the
3 child are divorced;

4 (h) *Child support* refers to a method of compensating a parent
5 needing monies for raising and sheltering a child by the other
6 parent who has the means to manage the expenses associated with
7 child support. A court of law usually determines the payments
8 based on the income level of the other parent and the needs of the
9 child;

10 (i) *Chronic gambling* refers to a disorder of impulse control in
11 which a person makes wagers of various types which compromise,
12 disrupt or damage family, work and social relations, and vocational
13 pursuits;

14 (j) *Competent court* refers to the proper family court
15 established under Republic Act No. 8369 or the "Family Courts Act
16 of 1997", which shall exercise jurisdiction over both the absolute
17 divorce proceeding and the persons of the petitioner and respondent
18 spouses;

19 (k) *Court-assisted petitioner* or *petitioners* refer to those who
20 have personal or real properties not exceeding Five million pesos
21 (P5,000,000.00), whether singly or jointly;

22 (l) *Domestic* or *marital abuse* refers to violence or aggressive
23 behavior within the home, typically involving the violent abuse of a
24 spouse by the other. It may be committed in the form of:

25 (1) Physical violence;

26 (2) Psychological and emotional violence;

27 (3) Sexual violence; or

28 (4) Economic abuse;

1 (m) *Drug addiction* refers to habitual dependence on a
2 prohibited drug or drugs;

3 (n) *Homosexual* refers to a person who is attracted to persons
4 of the same sex;

5 (o) *Insanity* refers to a condition or “a manifestation in
6 language or in conduct of a disease or defect of the brain, a more or
7 less permanent disease or disorder condition of the mentality,
8 functional or organic, and characterized by perversion, inhibition, or
9 disordered function of the sensory or of the intellectual faculties, or
10 by impaired or disordered volition”;

11 (p) *Irreconcilable differences* refer to the existence of
12 overriding conflicts between a married couple that are so
13 pronounced and beyond repair as to make the marriage unworkable,
14 and for which the law permits a divorce;

15 (q) *Joint petition* refers to the legal action filed by both
16 spouses before the family court for the dissolution of their marriage
17 based on any of the grounds for absolute divorce provided for in this
18 Act;

19 (r) *Legitime* refers to the portion of a parent’s estate from
20 which they cannot disinherit the children without sufficient legal
21 cause;

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

24 (t) *Overseas Filipino worker (OFW) or migrant worker* refers
25 to a citizen of the Philippines who is living and working in a foreign
26 country, typically on a temporary basis with a work contract or as
27 defined under Section 3 of Republic Act No. 8042, as amended by
28 Republic Act No. 10022, otherwise known as the “Migrant Workers

1 and Overseas Filipinos Act of 1995”;

2 (u) *Psychological incapacity* refers to the condition provided
3 for in Article 36 of the Family Code of the Philippines which
4 warrants the nullification of a marriage;

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

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

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

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

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

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

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

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

3 (3) Attempt of respondent to corrupt or induce the petitioner,
4 a common child, or a child of the petitioner, to engage in
5 prostitution, or connivance in such corruption or inducement;

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

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

10 (6) Homosexuality of any of the spouses;

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

13 (8) Marital infidelity or perversion or having a child with
14 another person other than one's spouse during the marriage, except
15 when upon the mutual agreement of the spouses, a child is born to
16 them by *in vitro* or a similar procedure or when the wife bears a
17 child after being a victim of rape;

18 (9) Attempt by the respondent against the life of the
19 petitioner, a common child or a child of the petitioner; and

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

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

27 (b) Grounds for annulment of marriage under Article 45 of
28 the Family Code of the Philippines restated as follows:

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

8 (2) Either party was of unsound mind, unless such party after
9 coming to reason, freely cohabited with the other as husband and
10 wife;

11 (3) The consent of either party was obtained by fraud, unless
12 such party afterwards, with full knowledge of the facts constituting
13 the fraud, freely cohabited with the other as husband and wife;

14 (4) The consent of either party was obtained by force,
15 intimidation or undue influence, unless the same having
16 disappeared or ceased, such party thereafter freely cohabited with
17 the other as husband and wife;

18 (5) Either party was physically incapable of consummating
19 the marriage with the other, and such incapacity continues or
20 appears to be incurable; and

21 (6) Either party was afflicted with a sexually transmissible
22 infection found to be serious or appears to be incurable:

23 *Provided*, That the grounds mentioned in numbers 2, 5 and 6
24 existed either at the time of the marriage or supervening after the
25 marriage;

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

1 (d) Psychological incapacity of either spouse as provided for in
2 Article 36 of the Family Code of the Philippines, whether or not the
3 incapacity was present at the time of the celebration of the marriage
4 or later;

5 (e) When one of the spouses undergoes a gender
6 reassignment surgery or transitions from one sex to another, the
7 other spouse is entitled to petition for absolute divorce with the
8 transgender or transsexual as respondent, or vice versa; and

9 (f) Irreconcilable marital differences and conflicts which have
10 resulted in the total breakdown of the marriage beyond repair,
11 despite earnest and repeated efforts at reconciliation, shall entitle
12 either spouse or both spouses to petition for absolute divorce.

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

17 SEC. 7. *Procedure for Obtaining Absolute Divorce.* –

18 (a) The established and recognized procedures for securing
19 legal separation, annulment of marriage and voiding of a marriage
20 under the Family Code of the Philippines, as far as practicable,
21 shall govern the process of obtaining a judicial decree of absolute
22 divorce from the proper family court which shall be commenced by
23 the petitioner or joint petitioners filing a verified petition for
24 absolute divorce.

25 (b) The factors and grounds which militate against the grant
26 of legal separation and the annulment and nullification of
27 marriages as provided for in the Family Code of the Philippines

1 shall likewise be assessed, based on competent and credible proof,
2 against the grant of absolute divorce.

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

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

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

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

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

26 (e) All creditors of the absolute community or of the conjugal
27 partnership of gains, as well as the personal creditors of the
28 spouses, shall be listed in the petition for absolute divorce and

1 notified of the filing thereof. The court shall take measures to
2 protect the creditors and other persons with pecuniary interest.

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

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

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

15 SEC. 8. *Overseas Filipino Workers (OFWs)*. – Petitioners
16 who are OFWs shall be given priority by the proper court with
17 respect to the hearing of their petitions and the court shall set the
18 reception of evidence, upon the availability of the petitioners, for not
19 more than two (2) consecutive days.

20 SEC. 9. *Summary Judicial Proceedings*. – The following
21 grounds for absolute divorce may be subject to summary judicial
22 proceeding as defined in Section 4(w) of this Act:

23 (a) When the spouses have been separated *de facto* for at
24 least five (5) years;

25 (b) When one of the spouses has contracted a bigamous
26 marriage;

27 (c) When the spouses have been legally separated by judicial
28 decree for two (2) years or more;

1 (d) When one of the spouses has been sentenced to
2 imprisonment for six (6) years, even if subsequently pardoned;

3 (e) When one of the spouses has undergone a sex
4 reassignment surgery or has transitioned into another sex; and

5 (f) When both spouses have filed a joint petition for the
6 dissolution of their marriage before the proper family court based on
7 any of the grounds provided for in this Act.

8 SEC. 10. *Mandatory Six (6)-Month Cooling-off Period.* –

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

17 The requirement of a cooling-off period shall not apply in
18 cases which involve acts of violence against women and their
19 children under Republic Act No. 9262, otherwise known as the
20 “Anti-Violence Against Women and Their Children Act of 2004” or
21 attempt against the life of the other spouse or a common child or a
22 child of the petitioner.

23 SEC. 11. *Effects of Absolute Divorce.* – The decree of absolute
24 divorce shall have the following effects:

25 (a) The marriage bonds shall be severed and the divorced
26 spouses shall have the right to contract marriage again, either by
27 civil or religious ceremony;

28 (b) The custody of the minor children shall be decided by the

1 proper court in accordance with the best interests of the children,
2 subject to the provisions of Article 213 of the Family Code of the
3 Philippines, taking into primary consideration that no child under
4 seven (7) years of age shall be separated from the mother, unless
5 the proper court finds compelling reasons to order otherwise;

6 (c) The conjugal partnership of gains or the absolute
7 community shall be dissolved and liquidated and the assets shall be
8 equally divided between the spouses excluding the paraphernal or
9 exclusive properties of either spouse. The recognition and delivery
10 of the presumptive legitime of the common children shall be at the
11 option of both spouses. The presumptive legitime shall be computed
12 as of the date of the finality of the decree of absolute divorce. The
13 partition and distribution of the properties of the spouses and the
14 delivery of the children's presumptive legitime upon the option of
15 the spouses shall be recorded in the appropriate civil registry and
16 registries of property; otherwise, the same shall not affect third
17 persons;

18 (d) In addition to the equal share in the assets of the absolute
19 community or conjugal partnership, the petitioner who is not
20 gainfully employed shall be entitled to support from the respondent
21 until the petitioner finds adequate employment: *Provided*, That the
22 support shall not exceed three (3) years from the finality of the
23 decree of absolute divorce: *Provided, further*, That the right to
24 support shall be subject to the provisions of Article 201 of the
25 Family Code of the Philippines where the amount of support shall
26 be in proportion to the resources or means of the giver and to the
27 necessities of the recipient;

1 (e) The proper court shall have the discretion to grant
2 alimony, child support and child custody pursuant to the pertinent
3 provisions of the Family Code of the Philippines, and impose
4 contempt of court against the defaulting parties. The petitioner
5 may opt for a one-time or on a monthly basis alimony. The necessity
6 of alimony and the amount shall be determined by the court, taking,
7 into consideration all relevant factors;

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

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

22 (g) The effects on the divorced spouses with respect to
23 intestate succession, testamentary dispositions, donations and
24 insurance provisions on beneficiaries in accordance with the Family
25 Code of the Philippines and jurisprudence will be observed; and

26 (h) The legitimate and adopted children of divorced parents
27 shall retain their legal status and legitimacy. A child conceived or
28 born within three hundred (300) days after the filing of a petition

1 for absolute divorce shall be considered legitimate, unless the
2 ground for divorce is the marital infidelity of the wife.

3 SEC. 12. *Recognition of Reconciliation.* —

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

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

10 (1) The absolute divorce proceedings, if still pending, shall be
11 terminated at whatever stage; and

12 (2) The final decree of absolute divorce shall be set aside, but
13 the separation of property and any forfeiture of the share of the
14 respondent already effected shall subsist, unless the spouses agree
15 to revive their former property regime.

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

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

21 (1) The properties to be contributed anew to the restored
22 regime;

23 (2) Those to be retained as separate properties of each spouse;
24 and

25 (3) The names of all their known creditors, their addresses
26 and the amounts owing to each.

27 The agreement of revival and the motion for its approval shall
28 be filed with the court in the same proceeding for absolute divorce,

1 with copies of both furnished to the creditors named therein. After
2 due hearing, the court shall issue an order to protect the interest of
3 creditors and such order shall be recorded in the proper registries of
4 properties.

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

7 SEC. 13. *Finality of Decision or Decree.* – Except for
8 decisions or decrees in summary proceedings which shall be
9 immediately executory, all other decisions or decrees on absolute
10 divorce or dissolution of marriage shall be final and executory after
11 fifteen (15) days from the receipt by the concerned party or parties
12 of the principal decision or decree or the resolution denying a
13 motion for reconsideration which is filed within the fifteen (15)-day
14 reglementary period, except when an appeal to the Court of Appeals
15 is filed before the decision or decree becomes final.

16 SEC. 14. *Penalty.* – A spouse who is a party to a petition for
17 absolute divorce who is found by the court to have used threats or
18 coercion to compel the other spouse in filing the petition, and
19 spouses who are guilty of collusion, shall be punished with
20 imprisonment of five (5) years and a fine of Two hundred thousand
21 pesos (P200,000.00).

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

24 SEC. 15. *Options and Remedies.* – The concerned spouse or
25 spouses shall have the option to file a petition for absolute divorce
26 under this Act or avail of legal separation, annulment or
27 nullification of marriage as provided for in the Family Code of the
28 Philippines.

1 SEC. 16. *Implementing Rules and Regulations (IRR).* –
2 The Department of Justice (DOJ) as lead agency, together with the
3 Department of Social Welfare and Development (DSWD), the
4 Philippine Commission on Women (PCW), the National Youth
5 Commission (NYC), and at least two (2) representatives from
6 women's organizations to be appointed by the PCW in consultation
7 with civil society and women's organizations shall promulgate the
8 implementing rules and regulations (IRR) within sixty (60) days
9 after the effectivity of this Act.

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

13 SEC. 18. *Repealing Clause.* – All laws, executive orders,
14 issuances, decrees, rules and regulations inconsistent with or
15 contrary to the provisions of this Act are deemed amended, modified
16 or repealed accordingly.

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

Approved,

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