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**NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )**



'22 JUL -7 P6 :03

**SENATE**  
S.B. No. 237

RECEIVED BY: \_\_\_\_\_

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**INTRODUCED BY SENATOR ROBINHOOD PADILLA**

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**AN ACT  
PROVIDING FOR THE DISSOLUTION OF MARRIAGE**

**EXPLANATORY NOTE**

The 1987 Constitution guarantees the recognition of the sanctity of family life and endeavors the protection of the family as a basic autonomous social institution (Article II, Section 12). By definition, a family constitutes the relations between husband and wife, parent and child, among other ascendants and their descendants, and brothers and sisters. The U.N. Human Rights Committee also declares the importance of acknowledging the various forms of family including unmarried couples and their children and single parents and their children.<sup>1</sup>

Hence, in implementing the policy of the State to recognize the sanctity of family life, it must be duty-bound to promote and strengthen the well-being of its members. This duty should extend to cases of irremediably failed marriages that bring sorrow, pain, and other detrimental effects to families.

This bill rests upon the view that the dissolution of marriages marred by unhealthy, abusive, and even unhappy relations will protect the well-being of family members, especially of the children bearing the misery of the troubled marriage. This legal recourse is demanded when there is a dearth of love, respect, and support between married couples without sacrificing the very essence and spirit of a family.

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<sup>1</sup> UN Human Rights Committee (HRC), CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women), 29 March 2000, CCPR/C/21/Rev.1/Add.10, available at: <https://www.refworld.org/docid/45139c9b4.html> [accessed 2 July 2022]

The continuous lack of legislation for the dissolution of marriage in the country traps individuals in a supposed union that has long been destroyed and can at times be abusive especially to women, as well as expose the children to a prolonged and constant marital clash affecting their overall well-being. The dissolution of unions is also unlikely to slow down with annulment and nullity cases averaging over 10,000 from 2013 to 2017.<sup>2</sup>

To date, the Philippines stands solitary in the world, aside from Vatican City, as the only country where divorce is not legal. Meanwhile, a growing number of our population is becoming more receptive to the legalization of divorce, with an average of 53% of adult Filipinos responding positively to its application for irreconcilably separated couples based on a 2017 survey.<sup>3</sup>

The growing acceptance of divorce helps in reducing the stigma and opens the discourse on how we can redress an otherwise irreparable marriage to the best interest of the family. It also upholds the policy of the State to promote and protect the well-being of its citizens.

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



**ROBINHOOD PADILLA**

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<sup>2</sup> Office of Solicitor General. *“Number of Annulment and Nullity Cases filed for the last 10 Years.”* Retrieved from <https://www.osg.gov.ph/documents/open-data/mrcwithdecisions.pdf>

<sup>3</sup> Social Weather Stations (9 March 2018). Retrieved from the <http://www.sws.org.ph/swsmain/artclisppage/?artcsyscode=ART-20180309165548>



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**AN ACT  
PROVIDING FOR THE DISSOLUTION OF MARRIAGE**

*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 “Divorce Act of the  
2 Philippines”.

3  
4       **Section 2. Declaration of Policy.** – The State recognizes the sanctity of  
5 family life and shall protect and strengthen the family as a basic autonomous social  
6 institution and uphold the inviolability of marriage as a social institution. It is also the  
7 policy of the State to ensure the performance of the essential marital obligations  
8 between husband and wife and when one or both of the spouses has no capacity to  
9 perform such obligations, the State allows the dissolution of the marriage to protect  
10 the spouses and family.

11  
12       **Section 3. Interpretation.** – This Act shall be applied and interpreted in favor  
13 of the protection and strengthening of the family.

14  
15       **Section. 4. Dissolution of Marriage.** – A husband or a wife shall have a  
16 right to file a petition to dissolve a marriage on the grounds provided in this Act.

17  
18       **Section. 5. Grounds for Dissolution.** – A spouse may file for a petition for  
19 dissolution of marriage on the following grounds:

- 20  
21       a. When either of the spouses has no capacity to perform the essential marital  
22 obligations of the marriage and the incapacity continues and appears to be  
23 incurable;  
24  
25       b. When there is an existing irreconcilable marital difference;  
26  
27       c. When a spouse obtained a divorce abroad;

- 1 d. When a spouse is presumed dead under Articles 390 and 391 of the Civil  
2 Code of the Philippines;  
3
- 4 e. Upon conviction of an offense under Republic Act No. 9262 otherwise  
5 known as "*Anti-Violence Against Women and their Children Act of 2004*";  
6
- 7 f. Attempt by the respondent against the life of a common child or a child of  
8 the petitioner;  
9
- 10 g. Having a child with another person other than one's spouse during the  
11 marriage, except when upon the mutual agreement of the spouses, a child  
12 is born to them *in vitro* or through a similar procedure or when the wife  
13 bears a child after being a victim of rape;  
14
- 15 h. When any of the following grounds for annulment of marriage under Article  
16 45 of the Family Code of the Philippines, filed by the persons and within  
17 the periods provided in Article 47 of said Code, are present:  
18
- 19 1. That the party on whose behalf it is sought to have the marriage  
20 annulled was eighteen years of age or over but below twenty-  
21 one, and the marriage was solemnized without the consent of the  
22 parents, guardian, or person having substitute parental authority  
23 over the party, in that order, unless after attaining the age of  
24 twenty-one, such party freely cohabited with the other and both  
25 lived together as husband and wife;  
26
  - 27 2. That either party was of unsound mind, unless such party after  
28 coming to reason, freely cohabited with the other as husband and  
29 wife;  
30
  - 31 3. That the consent of either party was obtained by fraud, unless  
32 such party afterward, with full knowledge of the facts constituting  
33 the fraud, freely cohabited with the other as husband and wife;  
34
  - 35 4. That the consent of either party was obtained by force,  
36 intimidation, or undue influence, unless the same having  
37 disappeared or ceased, such party thereafter freely cohabited  
38 with the other as husband and wife;  
39
  - 40 5. That either party was physically incapable of consummating the  
41 marriage with the other, and such incapacity continues and  
42 appears to be incurable; or  
43
  - 44 6. That either party was afflicted with a sexually-transmissible  
45 disease found to be serious and appears to be incurable.

1 i. Except when circumstance is present under Article 56 of the Family Code  
2 of the Philippines when any of the following grounds for legal separation  
3 under Article 55 of the said Code are present:  
4

- 5 1. Repeated physical violence or grossly abusive conduct directed  
6 against the petitioner, a common child, or a child of the  
7 petitioner;  
8
- 9 2. Physical violence or moral pressure to compel the petitioner to  
10 change religious or political affiliation;  
11
- 12 3. Attempt of respondent to corrupt or induce the petitioner, a  
13 common child, or a child of the petitioner, to engage in  
14 prostitution, or connivance in such corruption or inducement;  
15
- 16 4. Final judgment sentencing the respondent to imprisonment of  
17 more than six (6) years, even if pardoned;  
18
- 19 5. Drug addiction or habitual alcoholism of the respondent;  
20
- 21 6. Lesbianism or homosexuality of the respondent;  
22
- 23 7. Contracting by the respondent of a subsequent bigamous  
24 marriage, whether in the Philippines or abroad;  
25
- 26 8. Sexual infidelity or perversion;  
27
- 28 9. Attempt by the respondent against the life of the petitioner; or  
29
- 30 10. Abandonment of petitioner by respondent without justifiable  
31 cause for more than one (1) year.  
32

33 j. When the spouses are separated in fact for at least two (2) consecutive  
34 years at the time of the filing of the petition for divorce; and  
35

36 k. When the spouses have been legally separated by judicial decree under  
37 Article 55 of the Family Code of the Philippines.  
38

39 **Section 6. Conversion to Petition for Dissolution of Marriage.** – Subject  
40 to notice and hearing, an aggrieved party to an action under Sections 36, 45, 55 of  
41 the Family Code of the Philippines may convert the action, upon a motion, into an  
42 action for dissolution of marriage under this Act.  
43

44 **Section 7. Mandatory Cooling-Off Period.** – A six-month mandatory  
45 cooling-off period after the filing of the petition for divorce shall be observed before  
46 the competent court may start the trial of the said petition during which the court shall  
47 exercise all efforts to reunite and reconcile the parties. The requirement of a cooling-  
48 off period shall not apply in cases falling under:

- 1 a. Summary judicial proceedings;  
2  
3 b. Sexual infidelity under Section 5 (i)(8) of this Act;  
4  
5 c. Attempt by the respondent against the life of a common child or a child of  
6 the petitioner under Section 5 (f) of this Act;  
7  
8 d. Attempt by the respondent against the life of the petitioner under Section  
9 5 (i)(9) of this Act; or  
10  
11 e. Those which involve acts of violence against women and their children  
12 under Section 5 of Republic Act No. 9262.  
13

14 **Section 8. Reconciliation.** – The petition for dissolution shall be dismissed  
15 upon showing that the parties reconciled in a verified joint motion filed by the parties.  
16

17 **Section 9. Summary Procedure.** – The rules on summary procedure shall  
18 apply to grounds in Section 5 (c), (e), (g), (i) par. 4, and (k) of this Act.  
19

20 **Section 10. Collusion Investigation.** – If no responsive pleading is filed by  
21 the adverse party, the court shall issue an order requiring the public prosecutor to  
22 conduct a collusion investigation in sixty (60) days with notice to the parties whether  
23 collusion exists. The court shall dismiss the petition upon showing that collusion exists.  
24

25 **Section 11. Protection of Creditors.** – All creditors of the absolute  
26 community or of the conjugal partnership of gains, as well as the personal creditors  
27 of the spouses, shall be listed in the petition for divorce and notified of the filing  
28 thereof. The court shall take measures to protect the creditors and other persons with  
29 pecuniary interest.  
30

31 **Section 12. Support and Custody Pendente Lite.** – During the pendency  
32 of the action and in the absence of adequate provisions in a written agreement  
33 between the spouses, the Court shall determine the support of the spouses and the  
34 custody and support of the children.  
35

36 **Section 13. Effects of Dissolution of Marriage.** – Upon the finality of the  
37 dissolution of marriage:  
38

- 39 a. The marriage between the husband and wife is dissolved thereby  
40 capacitating them to contract to marry;  
41  
42 b. The children of the parties shall be considered legitimate;  
43  
44 c. The custody of minor children shall be decided by the competent court in  
45 accordance with the best interests of the children, subject to the provisions  
46 of Article 213 of the Family Code of the Philippines;

- 1 d. The judgment shall provide for the liquidation, partition, and distribution of  
2 the properties of the spouses, the custody and support of the children, and  
3 the delivery of third presumptive legitimes pursuant to Articles 50 and 51  
4 of the Family Code of the Philippines unless such matters had been  
5 adjudicated in previous judicial proceedings;  
6  
7 e. In the partition, the conjugal dwelling and the lot on which it is situated  
8 shall be adjudicated in accordance with the provisions of Articles 102 and  
9 129 of the Family Code of the Philippines; and  
10  
11 f. The effects on the divorced spouses with respect to intestate succession,  
12 testamentary dispositions, donations, and insurance provisions on  
13 beneficiaries in accordance with the Family Code of the Philippines and  
14 jurisprudence will be observed.  
15

16 **Section 14. *Separability Clause.*** – If any part or provision of this Act is held  
17 invalid or unconstitutional, the other provisions not affected thereby shall remain in  
18 force and effect.  
19

20 **Section 15. *Repealing Clause.*** – All laws, executive orders, issuances,  
21 decrees, rules, and regulations inconsistent with or contrary to the provisions of this  
22 Act are deemed amended, modified, or repealed accordingly.  
23

24 **Section 16. *Effectivity.*** – This Act shall take effect fifteen (15) days after its  
25 publication in the Official Gazette or in any newspaper of general circulation.

Approved,