

SEVENTEENTH CONGRESS OF THE REPUBLIC)  
OF THE PHILIPPINES )  
First Regular Session )

'17 MAR -7 P 4:11

SENATE  
S. No. 1366

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Introduced by Senator Poe

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**AN ACT  
EXPANDING THE GROUNDS FOR LEGAL SEPARATION, AMENDING FOR THE  
PURPOSE ARTICLE 55 OF THE FAMILY CODE OF THE PHILIPPINES**

*Explanatory Note*

One of the commitments which the Philippines signed and ratified under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the legislation of appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations. Further, CEDAW General Recommendation No. 19 suggests that State Parties review their laws and policies relating to gender-based violence.

To this end, we seek to update the current enumeration of grounds for legal separation under Article 55 of the Family Code of the Philippines. As it stands now, the provision requires repeated physical violence or grossly abusive conduct in order to justify a legal separation. The wording is problematic because (1) the abuse must be repeated or grossly abusive sexual abuse, putting the life of the victim at risk; and (2) it does not recognize sexual abuse which is what usually happens in the privacy of homes.

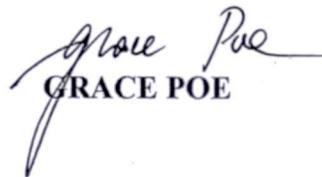
Under the Civil Code, any physical violence less than an attempt on the life of the other spouse is not a ground for legal separation. A husband who physically manhandles the

wife every time he is drunk without intent to kill was not a ground for legal separation.<sup>1</sup> This ground was retained in Article 55 of the Family Code as one of the grounds for legal separation. While the enumeration of grounds under the same Article has recognized attempts on the life of the spouse without intent to kill as sufficient reason to grant legal separation, it has required proof of repetitiveness and gross abuse from the victim to legally separate from an abusive spouse.

The seemingly innocuous wording of this ground has put undue burden on victim spouses who would have wanted to legally separate from their abusers but could not do so until they are physically and emotionally battered due to multiple instances of abuse. Why should we wait until abuse has become repetitive or gross? We should stop abuse at the first instance and we should not allow abusers take refuge behind gaps in the law.

While the proposed amendment will apply to both spouses regardless of gender, the updating of the grounds for legal separation will undoubtedly benefit women more as they comprise the majority of reported domestic violence cases.<sup>2</sup>

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

  
GRACE POE

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<sup>1</sup> Rodriguez, Rufus B.. *The Family Code of the Philippines Annotated*. 3<sup>rd</sup> ed. *citing* Munoz v. Del Barrio 51 OG # 10 p. 5217 (CA). pp. 118-119.

<sup>2</sup> Philippine Commission on Women Policy Brief No. 7, "*Recognizing Sexual Abuse and Focusing on the Violence and Abusive Conduct as Grounds for Legal Separation: Amending the Family Code Provision on Legal Separation*", Retrieved on 28 February 2017: <http://pcw.gov.ph/wpla/recognizing-sexual-abuse-and-focusing-violence-and-abusive-conduct-grounds-legal-separation-amending-family-code-provision-legal-separation>



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

1           **SECTION 1.** Article 55 of the Family Code of the Philippines is hereby amended to  
2 read as follows:

3                     Art. 55. A petition for legal separation may be filed on any of the  
4 following grounds:

5                     1.     [Repeated] **physical AND/OR SEXUAL VIOLENCE,**  
6                     [grossly] **OR ABUSIVE CONDUCT** directed against the petitioner, a  
7 common child, or a child of the petitioner; xxx

8           **SECTION 2. Separability Clause.** – If any provision or part hereof is held invalid or  
9 unconstitutional, the remaining parts or provisions not affected shall remain in full force and  
10 effect.

11           **SECTION 3. Repealing Clause.** – All laws, decrees, orders, and issuances, or  
12 portions thereof, which are inconsistent with the provisions of this Act, are hereby repealed,  
13 amended or modified accordingly.

1           **SECTION 4. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its  
2 publication in the *Official Gazette* or in two (2) newspapers of general circulation.

*Approved,*