

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



Senate
Office of the Secretary

SENATE

S. No. 68

'19 JUL -1 P1 :44

Introduced by Senator **PIA S. CAYETANO**

RECEIVED BY

AN ACT

ENSURING THE FUNDAMENTAL EQUALITY OF MEN AND WOMEN UNDER THE LAWS ON MARRIAGE AND FAMILY RELATIONS, AMENDING FOR THE PURPOSE EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Our country is recognized as one of the most gender equal nations in the world. The Philippines is the best performer in the Asia-Pacific region when it comes to equality between genders.

However, despite the landmark legislation we have passed and been recognized for, there remain vestiges of gender insensitivity and discrimination against women in our laws.

One such law is Executive Order No. 209, otherwise known as the Family Code of the Philippines. The Family Code, as amended, contains several provisions that hold the decision of the husband or father, supreme over that of the wife or mother.

Executive Order No. 209 was a Presidential Proclamation made in 1987, almost thirty years ago. And although it introduced many subsequent changes, gender-biased provisions which are remnants of the Civil Code passed in 1950, still remain. To wit:

Article 14, which deals with the requirement of parental consent for marriage of a child aged between eighteen (18) and twenty-one (21) years old, accords primacy to the consent of the father over that of the mother.

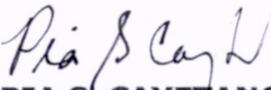
Articles 96 and 124, which deal with the administration of community property and conjugal partnership, respectively, state that although administration and enjoyment belong to both spouses jointly, the husband's decision shall prevail in case of disagreement. The wife's only recourse is to bring such matter before the courts.

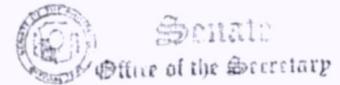
Article 211 states that the father and mother shall jointly exercise parental authority over their common children, but the father's decision shall prevail in case of disagreement. The rearing of children is a joint and collaborative effort between the father and mother. There is no rational explanation for according more weight to the decision of the father in the exercise of parental authority.

Finally, Article 225, which states that the father and mother shall jointly exercise legal guardianship over the property of their unemancipated common child, once again holds the father's decision supreme in case of disagreement.

Given these apparent inequalities, this bill seeks to amend the preceding provisions to give equal weight to the decision of the husband or father, and the wife or mother. This way, we eliminate the undue prejudice against women, and the law can now accord the same weight to the decision of either spouse or parent, in important matters concerning their marriage and family.

Hence, the swift passage of this bill is earnestly sought.


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AS THE FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER
PURPOSES

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

1 Section 1. Article 14 of Executive Order No. 209, as amended, otherwise
2 known as the Family Code of the Philippines, is hereby amended to read as
3 follows:

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

1 marriage license, and the affidavit, if one is executed instead, shall
2 be attached to said applications.”

3 Sec. 2. Article 96 of Executive Order No. 209, as amended, otherwise
4 known as the Family Code of the Philippines, is hereby amended to read as
5 follows:

6 “Art. 96. The administration and enjoyment of the community
7 property shall belong to both spouses jointly. In case of
8 disagreement, the **SPOUSES SHALL EXERT EARNEST EFFORTS**
9 **TO ENTER INTO A COMPROMISE AND ONLY UPON FAILING**
10 **SUCH SHALL THE COURT DECIDE THE CASE, UPON A**
11 **PROPER PETITION, IN A SUMMARY PROCEEDING** [the
12 husband's decision shall prevail, subject to recourse to the court by
13 the wife for proper remedy, which must be availed of within five
14 years from the date of the contract implementing such decision].

15 In the event that one spouse is incapacitated or otherwise
16 unable to participate in the administration of the common
17 properties, the other spouse may assume sole powers of
18 administration. These powers do not include disposition or
19 encumbrance without authority of the court or the written consent
20 of the other spouse. In the absence of such authority or consent,
21 the disposition or encumbrance shall be void. However, the
22 transaction shall be construed as a continuing offer on the part of
23 the consenting spouse and the third person, and may be perfected
24 as a binding contract upon the acceptance by the other spouse or
25 authorization by the court before the offer is withdrawn by either or
26 both offerors.”

27 Sec. 3. Article 124 of Executive Order No. 209, as amended, otherwise
28 known as the Family Code of the Philippines, is hereby amended to read as
29 follows:

1 "Art. 124. The administration and enjoyment of the conjugal
2 partnership shall belong to both spouses jointly. In case of
3 disagreement, the **SPOUSES SHALL EXERT EARNEST EFFORTS**
4 **TO ENTER INTO A COMPROMISE AND ONLY UPON FAILING**
5 **SUCH SHALL THE COURT DECIDE THE CASE, UPON A**
6 **PROPER PETITION, IN A SUMMARY PROCEEDING** [husband's
7 decision shall prevail, subject to recourse to the court by the wife
8 for proper remedy, which must be availed of within five years from
9 the date of the contract implementing such decision].

10 In the event that one spouse is incapacitated or otherwise
11 unable to participate in the administration of the conjugal
12 properties, the other spouse may assume sole powers of
13 administration. These powers do not include disposition or
14 encumbrance without authority of the court or the written consent
15 of the other spouse. In the absence of such authority or consent,
16 the disposition or encumbrance shall be void. However, the
17 transaction shall be construed as a continuing offer on the part of
18 the consenting spouse and the third person, and may be perfected
19 as a binding contract upon the acceptance by the other spouse or
20 authorization by the court before the offer is withdrawn by either or
21 both offerors."

22 Sec. 4. Article 211 of Executive Order No. 209, as amended, otherwise
23 known as the Family Code of the Philippines, is hereby amended to read as
24 follows:

25 "Art. 211. The father and the mother shall jointly exercise parental
26 authority over the persons of their common children. In case of
27 disagreement, the **FATHER AND MOTHER SHALL EXERT**
28 **EARNEST EFFORTS TO ENTER INTO A COMPROMISE AND**
29 **ONLY UPON FAILING SUCH SHALL THE COURT DECIDE THE**
30 **CASE, UPON A PROPER PETITION, TAKING INTO**

1 **CONSIDERATION THE BEST INTERESTS OF THE COMMON**
2 **CHILDREN** [father's decision shall prevail, unless there is a judicial
3 order to the contrary].

4 Children shall always observe respect and reverence towards
5 their parents and are obliged to obey them as long as the children
6 are under parental authority."

7 Sec. 5. Article 225 of Executive Order No. 209, as amended, otherwise
8 known as the Family Code of the Philippines, is hereby amended to read as
9 follows:

10 "Art. 225. The father and the mother shall jointly exercise legal
11 guardianship over the property of the unemancipated common child
12 without the necessity of a court appointment. In case of
13 disagreement, the **FATHER AND THE MOTHER SHALL EXERT**
14 **EARNEST EFFORTS TO ENTER INTO A COMPROMISE AND**
15 **ONLY UPON FAILING SUCH SHALL THE COURT**
16 **DECIDE,UPON A PROPER PETITION, TAKING INTO**
17 **CONSIDERATION THE BEST INTEREST OF THE COMMON**
18 **CHILD** [father's decision shall prevail, unless there is a judicial
19 order to the contrary].

20 Where the market value of the property or the annual income of the
21 child exceeds P50,000, the parent concerned shall be required to
22 furnish a bond in such amount as the court may determine, but not
23 less than ten *per centum* (10%) of the value of the property or
24 annual income, to guarantee the performance of the obligations
25 prescribed for general guardians.

26 A verified petition for approval of the bond shall be filed in
27 the proper court of the place where the child resides, or, if the child
28 resides in a foreign country, in the proper court of the place where
29 the property or any part thereof is situated.

1 The petition shall be docketed as a summary special
2 proceeding in which all incidents and issues regarding the
3 performance of the obligations referred to in the second paragraph
4 of this Article shall be heard and resolved.

5 The ordinary rules on guardianship shall be merely suppletory
6 except when the child is under substitute parental authority, or the
7 guardian is a stranger, or a parent has remarried, in which case the
8 ordinary rules on guardianship shall apply.”

9 *Sec. 6. Separability Clause.* – If any portion or provision of this Act is
10 declared void and unconstitutional, the remaining portion or provisions hereof
11 shall not be affected by such declaration.

12 *Sec. 7. Repealing Clause.* – All laws, decrees, orders, rules and regulations,
13 other issuances or parts thereof inconsistent with the provisions of this Act are
14 hereby repealed or modified accordingly.

15 *Sec. 8. Effectivity Clause.* – This Act shall take effect fifteen (15) days
16 after its complete publication in at least two (2) national newspapers of general
17 circulation.

Approved,