

**HONORABLE IAN PAUL L. DY**  
Chairperson  
Committee on Population and Family Relations  
House of Representatives  
Quezon City

Attn: Ms. Isabelita R. Magnaye  
**Committee Secretary**

Dear **Representative DY**,

This refers to the request of the Committee for the submission of comments and recommendations of the Department of Social Welfare and Development (DSWD) respectfully on the following proposed legislation, namely House Bill Numbered 7435 "An Act Amending Title I, Chapter 3 Of Executive Order No. 209, Otherwise Known As The Family Code Of The Philippines, Prescribing Additional Grounds For Annulment."

The Department of Social Welfare and Development firmly aligns itself with the state's policy recognizing the family's pivotal role in national development, emphasizing the need to fortify familial bonds and actively promote their holistic growth as provided for by Article II, Section 12 of the constitution, which provides "The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution." The family, in its role as the basic unit of Philippine society, embodies a core social institution deserving of safeguarding and support as per public policy. Moreover, marriage, as the sacrosanct social institution forms the bedrock of family life and deserves protection from the state.

However, the DSWD as the principal agency responsible for social protection, acknowledges the grim reality that some families can fail in providing the nurturing and loving environment for their members, particularly the most vulnerable, such as women and children. The specter of failed and toxic marriages, abusive relationships, and instances of physical, sexual, mental, and emotional violence against individuals within family settings looms large and demands our attention as a society. Hence, it is imperative to intervene and safeguard the best interests of those affected.

In light of these considerations, the DSWD submits the following inputs and recommendation for the committee's thoughtful evaluation and consideration:

1. General comments

- 1.1 Due to the significant financial and legal burden of annulment, often falling on the abused spouse, the DSWD proposes that there must be adequate, expeditious, and accessible remedies for them;
- 1.2 We propose that a provision for counseling or psycho-social services will be included in the law specially if there are children that will be affected by

the separation of the spouses. This is to align with the mandate of the state to take care of the most vulnerable sectors of our society; and

- 1.3 It is proposed that the best interest of the child will be defined as: *“Best interest of the child” refers to the totality of circumstances and conditions that are most beneficial for the survival, protection and feelings of security of the child, and most likely to promote the child’s physical, psychological and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development of the child.”*
2. In Section 1, Paragraph 7, we propose that before a separation, an intervention through the Department of Social Welfare and Development through its social workers and psychosocial workers should be conducted so that there will be an opportunity to at least save the sanctity of the family to fulfil the mandate of the state as provided in - Article XV, Section 1 of the 1987 Constitution. It is only after an evaluation that a certification will be given stating that upon the assessment of the Department’s designated psychosocial workers or social workers, the relationship is so strained that reconciliation is deemed unfeasible and separation is the best option to all the parties involved including their children.
  3. In Section ,1 Paragraph 8, we would just like to clarify if a conviction of rape is needed before the annulment can be initiated? On this regard, the DSWD proposes that if a rape allegation was filed by the wife against the husband, an evaluation of the department’s social worker in coordination with other relevant government agencies can be used as a ground for the filing of the annulment regardless of the fact that no finality of judgement was entered. However, a conclusion that there is a probable cause must be first be evaluated. In cases of crimes against their children under the Republic Act No. 9262, or the Anti-Violence Against Women and Their Children Act and Republic Act No, 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, a conviction of the perpetrator is not needed. As long as there is a probable cause, a case for annulment may be filed by the spouse.
  4. In Section 1, Paragraph 10 regarding the recognition of foreign divorce, we propose that to expedite the procedure, the recognition of absolute nullity should be done administratively before the local civil registrar. That only upon an evaluation of questionable documents or suspicious act will be denied and a judicial process is proper. In this regard, the DSWD propose that an amendment on Art. 40 of the family code is needed which reads:

*“The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.”*

The department proposes that it will be amended as follows:

*“The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such*

previous marriage void. However, if a foreign divorce was obtained abroad, an administrative process before the local registrar where the Filipino spouse is a resident is enough for the divorce decree to be recorded. The Filipino spouse must present the decree or certificate of divorce issued by the proper authority in the foreign country as well as the law allowing divorce in the foreign country in the original language and its translation to English. The documents must be accompanied by a certificate of authenticity from a secretary of an embassy or legation, consul general, consul, vice consul, consular agent or any officer of the foreign service of the Philippines stationed in that foreign country.”

5. In the spirit of inclusion and recognition, the DSWD proposes that the indigenous people concept of divorce or indigenous way of separation should also be a ground for annulment provided that the parties are from the same indigenous community and they were married in accordance with their customs and traditions. Article 33 of the Family Code already recognizes the indigenous way of marriage, so it is only proper to also recognize the indigenous way of divorce as a ground for annulment as supported by Section 2 Paragraph C of Republic Act No. 8371 or “The Indigenous Peoples’ Rights Act of 1997” which reads:

*“The State shall recognize, respect and protect the rights of ICCs/IPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national laws and policies.”*

6. We propose a provision that will not compromise the legal status of the children born to these relationships. That for the best interest of the child, they will remain as legitimate in spite of the annulment of their parents.
7. Implementing rules and regulations

For drafting of the IRR, the DSWD proposes that the following agencies will be included in the drafting of the IRR:

- The National Commission on Indigenous People (NCIP) – this is to guide the committee on the indigenous customs of native Filipinos regarding divorce.
- The Office of the Civil Registrar General and the Department of Foreign Affairs (DFA) – this is to yield to their expertise in handling foreign related matters specially their input in Section 1 Paragraph 10 regarding the recognition of foreign divorces for the better drafting and creation of the law.
- The Council for the Welfare of Children (CWC) this is to help the drafters to identify groups that are expert in handling cases involving children.

The DSWD remains committed to collaborating with the committee and other stakeholders to develop legislation that protects and nurtures our families, safeguarding the rights and well-being of all members, particularly those who are vulnerable and marginalized. Together we can strive for a society where the sanctity of family is upheld, and individuals can thrive in an environment free from harm and violence.

This is being submitted for the Chairperson's consideration.

Thank you.

Very truly yours,



**REX GATCHALIAN**

Secretary

Date: DEC 22 2023