

Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1015



Introduced by
REPRESENTATIVE BERNADETTE HERRERA-DY

AN ACT RECOGNIZING THE PARTNERSHIP OF COUPLES,
PROVIDING THEIR RIGHTS AND OBLIGATIONS

EXPLANATORY NOTE

Section I, Article III of the 1987 Constitution provides:

"Section 1. No person shall be deprived of life, liberty or property without 4 due process of law, nor shall any person be denied the equal protection of the laws."

While there has been greater acceptance of minority groups in recent years, it is notable, however, that the Philippines has not made sufficient strides in providing some of the most basic civil rights to couples who are not eligible for marriage under the law. A large part of this affected population is the Lesbian GayT Bisexual and Transgender (LGBT) community. By reason of their sexual orientation and who they leave, they are excluded from entering into legally recognized arid protected unions.

This exclusion exacerbates the reality that most, if not all of these couples confront. For example, they cannot declare their partners as beneficiaries under social security and insurance plans. Further, they are unable to inherit through intestate rights in the event of the death of their partner. These restrict basic liberties that are available to most citizens, despite these couples taking part in loving, committed and long-term relationships.

This bill, recognizing the Constitutional right of all Filipinos to equal protection of the laws and to freely associate with others, hereby proposes to

allow couples to enter into a civil partnership, whether they are of the opposite or of the same sex. it aims to be a landmark effort to provide civil rights, benefits, and responsibilities to couples previously unable to marry, by giving them due recognition and protection from the State. Lastly, it protects civil partnership couples by penalizing unlawful and discriminatory practices committed by persons or institutions against them on the basis of their civil partnership status.

Ultimately, at the core of a civil partnership are MIO fully consenting adults who, like many Filipinos, merely wish to love, care and support each other as they build a life together during their fleeting time here on earth. It is about time that the Philippine government grant couples, whether they are of the opposite or of the same sex, adequate legal instruments to recognize their partnerships, respecting their dignity and recognizing their equality before the law.

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



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

SEC. 1. Short Title. - This Act shall be known as the "Civil Partnership Act."

SEC. 2. Declaration of Policy. — It is the policy of the State to value the
dignity of every human person and guarantee full respect for human rights,
Toward this end, the State shall give full support to the welfare and well-being of
couples, of either the opposite or same sex, who are in a relationship and are
denied their rights and obligations on account of absence of legal provisions that
recognize their relationship and amply provide for their protection.

SEC. 3. Definition of Terms. —As used in this Act:

- a) Civil partnership refers to a special contract of a union between two (2)
persons of opposite or same sex who enter into a mutual agreement to perform
the rights and obligations as stated in this act;
- b) Civil partnership couple refers to individuals who formally enter into a civil
partnership in accordance with the provisions of this Act;
- c) Authority to enter into civil partnership refers to a document issued by the local
civil registrar of the city or municipality where each of the parties habitually
resides; or to the Consul-General if the contracting party/parties reside outside
the Philippines;
- d) Civil partnership contract refers to a document that certifies that the persons
25 named on the certificate have established a civil partnership in compliance
with this Act;

e) Pre-civil partnership agreement refers to an agreement pertaining to the property regime between prospective partners in a civil partnership made contemplation of establishing a civil partnership which shall be registered with the local civil registry; and

f) Property refers to an interest, present or future, legal or equitable, vested or 5 contingent, in real or personal property, including income and earnings.

SEC. 4. Recognition of Civil Partnership. — Any person who complies with the requirements herein provided, shall be allowed to register and enter into a civil partnership, and shall be bound by the obligations and responsibilities and enjoy the protections and benefits afforded by this Act. The rights of civil partnership couples shall be recognized and respected.

SEC. 5. Requisites of a Civil Partnership. — No civil partnership shall be valid 14 unless the following requirements are present:

a) Legal Capacity of the contracting parties. For purposes of this Act, there is 17 legal capacity if the parties:

- 1) Are at least eighteen (18) years of age, provided consent of the parents or legal guardians is required if either or both of the contracting parties is/are between the ages of eighteen (18) and twenty-one (21) years old;
- 2) Are not prohibited to enter into a civil partnership by reason of public policy, based on the following grounds: and
 - a. between ascendants and descendants of any degree;
 - b. between brothers and sisters, whether of full or half-blood;
 - c. between collateral blood relatives, whether legitimate or illegitimate up to the fourth civil degree;
 - d. between step-parents and step-children;
 - e. between parents-in-law and children-in-law;
 - f. between the adopting parent and the adopted child;
 - g. between the surviving spouse or partner of the adopting parent and the adopted child;
 - h. between the surviving spouse or partner of the adopted child and the adopter;
 - i. between an adopted child and the legitimate child of the adopter;
 - j. between the adopted children of the same adopter;
 - k. between parties where one, with the intention to enter into a civil partnership contract with the other, killed that other person's civil partner or spouse or his/her own spouse or civil partner;
- 3) Are free from any existing bond of marriage or civil partnership;

- b) Consent freely given in the presence of a duly licensed notary public;
- c) A valid authority to enter into a civil partnership issued by and obtained from the local civil registrar of the city or municipality where each of the contracting parties habitually resides; and
- d) A civil partnership contract shall be executed with their personal appearance of the contracting parties before the notary public and their 50 personal declaration, as proof of consent freely given, that they take each 51 other as civil partners in the presence of not less than two (2) witnesses.

The absence of any of the requisites mentioned in this section shall render the civil partnership void ab initio. A defect in the requirements provided under paragraphs (a), and (b) shall be a ground for the dissolution of the civil partnership. However, a defect in paragraphs (c) and (d) shall be deemed a mere irregularity, which shall not affect the 1 validity of civil partnership but the persons responsible for the commission of the 2 irregularity shall be civilly, criminally and administratively liable.

SEC. 6. Authority to enter into a civil partnership and civil partnership contract. The requirements for and prohibitions relative to, as well as the procedures in the issuance of a valid authority to enter into a civil partnership contract are the following:

- a) For contracting parties who are both Filipino citizens residing in the Philippines, an authority to enter a civil partnership shall be issued by the Local Civil Registrar of the city or municipality where each of the contracting party habitually resides;
- b) For contracting parties who are Filipino citizens residing abroad, the issuance of the authority to enter into a civil partnership and the duties of the local civil registrar shall be performed by said consular official authorized to authenticate in the country where either of them resides;
- c) For contracting parties whereby one is a Filipino citizen and the other is a citizen of another country, who are both residing in the Philippines, the issuance of the authority to enter into a civil partnership shall be issued by the local civil registrar of the city or municipality where the Filipino contracting party habitually resides. In the case of the foreigner contracting party, he/shall obtain an authority to enter into a civil partnership, or any 24 similar document evidencing capacity to enter into a civil partnership under 25 the laws of his/her country of citizenship.
- d) For contracting parties whereby one is a Filipino citizen and the other is a citizen of another country, who are both residing abroad, the duties of the

local civil registrar shall be performed by said Philippine consular official authorized to authenticate in the country where the Filipino contracting party resides. In the case of the foreigner contracting party, he/she shall obtain an authority to enter into a civil partnership, or any similar document evidencing capacity to enter into a civil partnership under the laws of his/her country of citizenship;

e) Each of the contracting parties shall file separately a sworn application to enter into civil partnership contract with the proper local civil registrar. It shall be duty of the notary public to furnish either of the contracting parties the original of the civil partnership contract and to send the duplicate and triplicate copies of the contract not later than fifteen (15) days after the civil partnership ceremony, to the Local Civil Registrar of the place where the civil partnership was administered. Any person responsible to furnish the 43 original and copies of the contract who fails to the same within the period 44 provided shall be civilly, criminally and administratively liable.

SEC. 7. Pre-Civil Partnership Agreement. — Civil partnership couples may, within the limits provided for by this Act, fix their property relations by executing a pre-civil partnership agreement which shall be in writing, with a statement of assets annexed thereto, signed by both parties, and contained in a public instrument.

Such a regime shall govern the right to own, dispose of, possess, administer and enjoy properties, subject to modifications, which are not contrary to law, morals, good customs, public order or public policy, given the nature of their partnership.

Any stipulation or agreement that is inimical to the interest of the civil partnership relative to sustenance and support for medical treatment, dwelling, food, clothing and other 1 needs of the couple, or adversely affects the right of children to receive support, shall 2 automatically be declared void. Stipulations which are not contrary to law, morals good 3 customs, public or public policy shall not be invalidated and shall remain effective. 4

A pre-civil partnership agreement becomes effective upon the establishment of the 6 civil partnership.

In the absence of a pre-civil partnership agreement or when the regime agreed upon is void, the regime of total separation of property shall govern. For civil partnerships declared void ab initio, the properties acquired by civil partnership couples while they live together shall be presumed, unless proven otherwise, to have been obtained through their joint efforts, work and industry, and shall be governed by the rules on co-ownership of property, unless otherwise provided for in a pre-civil partnership agreement.

SEC. 8. Revocation of Pre-Civil Partnership Agreement.

Upon the establishment of a civil partnership, a pre-civil partnership agreement may be revoked only by a duly notarized written agreement, freely and consensually entered into, signed by the 18 parties and approved by the court. The court's role is to ensure that the revocation of the 19 property regime is consensual.

Any party may file a petition for revocation of a pre-civil partnership agreement before the court, the court shall have exclusive jurisdiction to settle all issues regarding revocation. The burden of proof to set aside a pre-civil partnership agreement shall be upon the party alleging the agreement to be unenforceable. A pre-civil 25 partnership agreement shall be unenforceable if the party seeking to set the same aside 26 proves, by clear and convincing evidence, that:

- a) The party executed the agreement involuntarily; or
- b) The agreement was unconscionable at the time enforcement was sought; or
- c) The party, before execution of the agreement, failed to
- d) Provide full and fair disclosure of the earnings, property and financial obligations of the other party;
- e) Voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party; or
- f) Have, or reasonably have had, an adequate knowledge of the property or financial obligations of the other party; or
- g) Consult with independent legal counsel and voluntarily and expressly waive, in writing, the opportunity to consult with independent legal counsel.
- h) In case a disagreement and the parties cannot settle the issue of unconscionability of a pre-civil partnership agreement, the issue shall be determined by the court.

SEC. 9. Benefits and Protections of Civil Partnership. — Benefits and 45 Protection of Civil Partnership. — Civil partnership couples shall be afforded the 46 following benefits, protections and responsibilities.

- a) All benefits and protections as are granted to spouses in a marriage under existing laws, administrative orders, court rulings, or those derived as a matter of public policy, or any other source of civil law;
- b) Laws of marital relations, including donations by reason of marriage, legal separation, adoption, child custody and support, property division and maintenance, and spousal support shall apply to civil partnership couples;
- c) Rights of civil partnership couples with respect to a child of whom both become the parents of during the terms of the civil partnership, shall be the same as those of a married couple with respect to their child;
- d) All contracts made between persons in contemplation of a civil partnership shall remain in full force after such civil partnership takes place;

e) A certified true copy of the record of the civil partnership from the local civil registrar having custody of the record shall be presumptive evidence of the civil partnership for all legal purposes;

f) Laws relating to interstate succession, survivorship, or other incidents of the 13 acquisition, ownership or transfer, inter vivos or at death, or real or personal property, as affecting parties to a marriage, shall likewise be applicable to civil partnership couples;

g) Causes of action related to or depended upon spousal status, including torts or actions under contracts reciting, related to, or dependent upon spousal status may be availed of by civil partnership couples;

h) Civil partnership couples shall automatically have insurable interest over their respective partners and may avail of benefits relating to insurance, health and pension benefits provided to married couples;

i) Labor standard benefits and privileges accorded to employees based on 26 marital status shall likewise be accorded to employees who entered into a civil partnership;

j) Benefits under tax laws relating to marital status shall be applicable to civil partnership couples;

k) Civil partnership couples are covered by laws relating to immunity from 33 being compelled to testify against the other as provided under the Rules of Court;

l) Civil partnership couples shall have the authority to give consent to any medical treatment in behalf of his/her civil partner under a serious medical condition; and

m) Allow equal visitation rights in hospitals and detention facilities for civil partnership couples and ensure their right in making medical and burial 42 decisions.

SEC. 10. Obligations of Civil Partnership Couples. — Civil partnership couples legally owe each other respect, fidelity, support and assistance. They are bound to live

together and are jointly responsible in the management of their household; exercise of parental authority, if applicable; the contribution towards expenses; the maintenance of the civil partnership residence; and other duties which married couples are jointly responsible for.

Civil partnership couples shall have the same obligations with respect to a child of whom both become the parents of during the terms of the civil partnership, as those as those of a married couple with respect to their child as provided for in existing laws.

SEC. 11. Inheritance Rights. — For purposes of inheritance rights, a partner in a civil partnership shall be considered a compulsory heir of the other, who shall have the same rights and benefits under Republic Act No. 286, otherwise known as the "Civil Code of the Philippines," as amended and the Family Code of the Philippines, as amended.

The provisions under existing laws of the Philippines on the successional rights of the child shall likewise be applied.

SEC. 12. Adoption Rights. —Civil partnership couples residing in the Philippines who have the qualifications and none of the disqualifications may adopt if the requirements for a valid adoption, as provided under existing laws are complied with. If the adopting civil partnership couple are persons of diverse sexual orientation, gender identity and/or expression (SOGIE), this fact alone shall not be considered as proof of bad moral character. The sexual orientation, gender identity and/or expression 12 of the adopting civil partnership couple shall not be a qualifying requisite for a valid 13 adoption. There shall be no discrimination against civil partners who will adopt children.

The best interest and welfare of the child shall always be the paramount consideration in deciding matters concerning the adoption of a child by civil partnership couples.

SEC. 13. Social Security and Insurance Membership. (note: ask comments from the authors on the title of the section)- Social Security and Insurance Membership.

— Civil partnership couples shall have the same rights and privileges as that granted to married couples with regard application for social security and other insurance membership and claiming entitlement to their benefits. The Social Security System, Government Service Insurance System, Philippine Health Insurance Corporation, [and] other benefits-related state agencies AND PRIVATE INSURANCE PROVIDERS shall restructure their benefits system to accommodate parties to civil partnerships and their corresponding dependents.

SEC. 14. Dissolution of Civil Partnership. — The procedures and grounds for the dissolution of civil partnership, are as follows:

- a) Physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;
- b) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
- c) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;
- d) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;
- e) Drug addiction or habitual alcoholism or chronic gambling of the respondent;
- f) Contracting by the respondent a subsequent bigamous marriage and/or civil partnership, whether in the Philippines or abroad;
- g) Infidelity or perversion or having a child with another person other than one's civil partner during the civil partnership, except when upon the

mutual agreement of both parties a child is born to them by intro vitro or a similar procedure or when the partner bears a child after being a victim of rape;

h) Attempt by the respondent against the life of the petitioner, a common child or a child of the petitioner;

i) Abandonment of petitioner by respondent without justifiable cause for more than one (1) year; and

j) That either party was of unsound mind, unless such party after coming to reason, freely cohabited with his/her civil partner;

k) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with his/her civil partner;

l) That the consent of either party was obtained by force, intimidation or under influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with his/her civil partners;

m) That either party was afflicted with a sexually transmissible infection found to be serious or appears to be incurable;

n) When the civil partners have been separated in fact for at least five (5) years at the time the petition for dissolution of civil partnership is filed, and reconciliation is highly improbable, except when the separation is due to the overseas employment of one or both parties in different countries or due to the employment of one of the parties in another province or region distant from the conjugal home;

o) When either of the civil partners are psychologically incapacitated at the time they entered into the civil partnership contract; and

p) Irreconcilable civil partnership differences and conflicts which have resulted 29 in the total breakdown of the civil partnership beyond repair, despite earnest 30 and repeated efforts at reconciliation.

Parties may, through a verified joint petition filed before the appropriate Regional Trial Court, move for the consensual termination of their civil partnership. The petition must include a joint plan for parenthood over common children, if any. The joint plan must provide for the support and living arrangements of the common children. The court shall ensure its enforcement and shall review the plan on an annual basis or as often as possible, in case the need arises. An action for joint petition for the termination of a civil partnership shall not be tried before six (6) months have elapsed since the filing of the petition. If the court determines that the consent of both parties was freely given and that the joint plan for parenthood is sufficient to protect the rights and interests of the children, the court shall grant the joint petition.

SEC. 15. Protection of Children in Case of Dissolution of Civil Partnership.
— To protect the rights and interests of children in the event of dissolution of the civil partnership, the court shall consider the following factors in so far as support for children, if applicable, is concerned:

a. Needs of the child;

b, Standard of living and economic circumstances of each parent;

- c. All sources of income and assets of each parent;
- d. Earning ability of each parent, including education background, training, employment skills, work experience, custodial responsibility for children including the cost providing child care and the length of time and cost of each parent to obtain training or experience for appropriate employment;
 - (a) Need and capacity of the child for education, including higher education;
 - (b) Age and health of the child and each parent;
 - (c) Income, assets and earning ability of the child;
 - (d) Responsibility of the parents for the court-ordered support of others;
 - (e) Reasonable debts and liabilities of each child and parent; and
 - (f) Any other factors the court may deem relevant.

The obligation to give support for a child who has not been emancipated by the court shall not terminate solely on the basis of the child's age if the child suffers from a severe mental or physical incapacity that causes the child to be financially dependent on a parent. The obligation to give support for that child shall continue until the court finds that the child is relieved of the incapacity or is no longer financially dependent on the parent.

SEC. 16. Support Pendente Lite. — In all actions brought for dissolution of a civil partnership, legal separation from a partner in a civil partnership couple or annulment of 16 the civil partnership, the court may provide for support pendente lite. In so doing, the court 17 shall consider the following factors, among others:

- a) The actual need and ability of the parties to pay;
- b) The duration of the civil partnership;
- c) The age, physical and emotional health of the parties;
- d) The standard of living established in the civil partnership and the likelihood that each party can maintain a reasonably comparable standard of living;
- e) The earning capacities, educational levels, vocational skills and employability of the parties;
- f) The length of absence from the job market of the party seeking maintenance;
- g) The parental responsibilities for the children;
- h) The time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, the

availability of the training and employment, and the opportunity for future acquisitions of capital assets and income;

- i) The history of the financial or non-financial contributions to the civil partnership by each party including contributions to the care and education of the children and interruption of personal careers or educational opportunities;
- j) The equitable distribution of property ordered and any payouts on equitable distribution, directly or indirectly, out of current income, to the extent this consideration is reasonable, just and fair;
- k) The income available to either party through investment of any assets held by that party; and
- l) Any other factors which the court may deem relevant.

For purposes of liquidation of earned assets and properties during the civil 2 partnership, household support and assistance are deemed equivalent to actual work and industry.

Dissolution of the civil partnership shall not prejudice the right of children to 6 legitimes under the Family Code of the Philippines, as amended.

SEC. 17. Unlawful or Discriminatory Employment Practices. — The following are declared as unlawful or discriminatory employment practices IN PUBLIC AND 10 PRIVATE WORK PLACES:

- a) For an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual because of civil partnership status, or to discriminate in any way against such individual in compensation or in terms, conditions or privileges of employment INCLUDING TRAINING AND PROMOTION;
- b) For a labor organization, to exclude or to expel from its membership such individual because of civil partnership status, or to discriminate in any way against of its members, against any applicant for, or individual included in, 22 any apprentice or other training program or against any employee or any individual employed by an employer;
- c) For any employees or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to civil partnership status for employment;

d) For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, directly or indirectly, to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of civil partnership status; and

e) For any person, including any owner, lessee, sublessee, assignee or managing agent of, other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or portion thereof, or any agent or employee of any of these to refuse to sell, rent, lease, assign or sublease or otherwise deny to or 47 withhold from any person or group of persons any real property or part or 48 portion thereof because of civil partnership status.

SEC. 18. Penalty Provisions. — (a) Any person who knowingly or willfully refuses to issue authority to enter into a civil partnership or civil partnership contract despite being authorized to do so; denies rights and benefits entitled to civil partnership couples; or commits unlawful, discriminatory employment practices[.]; OR COMMITS UNLAWFUL DISCRIMINATORY PRACTICES TO CHILDREN OF CIVIL PARTNERSHIP COUPLES as provided for in this Act, shall be penalized by a fine of not less than One hundred thousand pesos (P 100,000.00) but not more than Five hundred thousand pesos (P500,000.00) or imprisonment of not less than one (1) year but more than six (6) years, or both, at the discretion of the court.

If the offender is a corporation or association, the officer responsible for the acts enumerated in this Section shall be criminally and civilly liable.

If the offender is a public officer, prosecution under this Act shall be without prejudice to the filing of any administrative case against the public officer under other existing laws.

(b) Any person who commits an act of infidelity while bound in a civil partnership, as defined in Section 1 1 of this Act, shall be punished by prison correccional in its medium and maximum periods.

SEC. 19. Separability Clause. — If, for any reason, any section or provision of this 16 Act is declared unconstitutional or invalid, the other sections or provisions which are not affected shall continue to be full force and effect.

SEC. 20. Repealing Clause. — [Pertinent provisions of the Family Code of the Philippines, as amended, the Civil Code of the Philippines, as amended, and the Domestic Adoption Act of 1998, which are inconsistent with the provisions of this Act are hereby amended accordingly,] All [other] laws, decrees, executive orders,

[proclamations] ORDERS, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are [also] hereby amended, [or] repealed OR MODIFIED 25 accordingly.

SEC. 23. Effectivity. -This Act shall take effect fifteen (15) days after its publication 28 in the Official Gazette or in a newspaper of general circulation.

Approved