


10 SEP 13 P2:22

SENATE
S. B. No. 2497

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Introduced by SENATOR JUAN PONCE ENRILE

EXPLANATORY NOTE

A 2008 gender study¹ emphasized that the health of the mother and child are inextricably linked for biological and social reasons. While the government has called for the strengthening of maternal and child health care and nutrition and has, in fact, included the same among the top 10 priority areas of reproductive health, the promotion of the rights and welfare of unborn children, the most defenseless as they are, has not received adequate attention.

Over the years, many incidents of abortion have been reported, with mothers resorting to induced abortions for various reasons, while others suffered from spontaneous abortions, or miscarriage, due to acts, violent or otherwise, and practices that are harmful and fatal to the unborn child. Worse, the deleterious and often fatal consequences to the mothers of such acts of abortion performed in abortion clinics or elsewhere and by abortion practitioners that have proliferated, while clearly criminal in nature, have been used as a convenient excuse to advance the population control under the euphemism called “reproductive health.”

The 1987 Constitution in Article II Section 12 states, as a matter of national principle and State policy, that the State “shall equally protect the life of the mother and the life of the unborn from conception.”

This bill seeks to give life to this Constitutional right of the unborn child to protection, to accord the unborn child the basic right to life, to the protection of his or her welfare and against acts which place the unborn child in danger of being harmed, injured, or killed, bearing in mind that the unborn is totally incapable of protecting itself.

This bill likewise seeks to impose heavier penalties for abortive acts defined under Articles 256, 257, 258 and 259 of the Revised Penal Code. As the State recognizes the right of the unborn child, it must also ensure that the mother, as well as other persons who are expected to provide for the proper care and nurturing of the unborn child while in the mother’s womb, are more seriously held liable and accountable for any act they may commit which are injurious or fatal to the unborn child.

In recognition of this basic right to life and the need to protect the life and welfare of perhaps the most innocent and defenseless human beings that cry out for society’s help and protection, the immediate passage of this bill is earnestly sought.

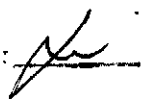

JUAN PONCE ENRILE
Senator

¹ “Paradox and Promise in the Philippines: A Joint Country Gender Assessment” by the Asian Development Bank, Canadian International Development Agency, European Union, United Nations Children’s Fund, United Nations Development Fund for Women, United Nations Population Fund, and the National Commission on the Role of Filipino Women. Manila, Philippines, 2008.

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AN ACT


TO UPHOLD THE HUMAN RIGHTS AND PROMOTE THE WELFARE OF THE
UNBORN CHILD, AMENDING FOR THE PURPOSE ARTICLES 256, 257, 258 AND 259
OF THE REVISED PENAL CODE, AND FOR OTHER PURPOSES

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

1 **SECTION 1. *Short Title.*** – This Act shall be known as the “*Protection of the Unborn*
2 *Child Act of 2010*”.

3 **SECTION 2. *Declaration of Policy.*** – Pursuant to Section 12, Article II of the 1987
4 Constitution which adopts, as a national principle and policy, that the State shall equally protect
5 the life of the mother and the life of the unborn child from conception, the unborn child shall
6 possess and enjoy all human rights that are conferred upon persons by the 1987 Constitution and
7 existing laws, foremost of which is the right to life, safety and protection while still in the
8 mother’s womb.

9 **SECTION 3. *Objectives.*** – *This Act aims to:*

- 10 a) Recognize the unborn child as a human being with a distinct human personality and
11 with the right to life and the right to be accorded the maximum protection of the State
12 and its laws;
- 13 b) Extend the mantle of legal protection to the unborn child from the moment of
14 conception;
- 15 c) Promote the welfare of the unborn child from the moment of conception and during
16 all stages of development while inside the mother’s womb;
- 17 d) Ensure that the delivery of health services to the mother during pregnancy are done
18 without prejudice to the unborn child;
- 19 e) Enhance the health of the mother by avoiding any means that may adversely affect
20 the viability of the unborn child in all stages of fetal development; and,
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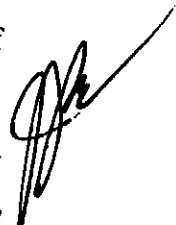
- 1 f) Promote and advance the maturity of the unborn child through means that recognize
2 and respect the right to life, health and welfare of both the mother and the unborn
3 child.

4 **SECTION 4. *Definition of Terms.*** – For purposes of this Act, the following terms shall be
5 defined as follows:

- 6 1) Unborn child - refers to a child at any stage of existence and development from
7 conception until birth;
- 8 2) Conception - refers to the moment when the sperm cell fertilizes the egg cell, upon
9 which it is recognized that a new life is formed with a distinct genetic make-up from
10 that of the father and the mother, and which, medically, is likewise known as the
11 moment of “fertilization”;
- 12 3) Abortifacient – refers to any device, drug, formulation, substance, practice or
13 procedure intended to damage, injure, interfere with the development, endanger or
14 cause the death of the unborn child or otherwise induce abortion. This term shall
15 include, but shall not be limited to, any formulation, substances, drugs or herbs
16 which, when ingested, injected or is otherwise introduced into a child-bearing
17 mother’s body, induces the abortion or the death and forced expulsion of the fetus
18 from the mother’s womb, as well as practices and procedures such as abdominal
19 massages or “hilot”, suction, saline injection, hysterectomy, dilation and curettage
20 (DNC) when such are clearly carried out or performed to induce or cause abortion
21 and for no valid medical or health reasons;
- 22 4) Abortion - any act or practice, whether done intentionally or unintentionally, that
23 causes the premature exit of the products of conception (e.g. fetus, fetal membrane,
24 placenta) from the uterus of a woman;
- 25 5) Abortive Acts – are the acts defined and penalized under Articles 256, 257, 258 and
26 to 259 of the Revised Penal Code; and
- 27 6) Parental right - refers to the right of parents to give consent, when minors are
28 involved, in any decision relating to the minor’s pregnancy and the life and welfare of
29 both the mother and the unborn child.

30 **SECTION 5. *Protection of the Unborn Child.*** – The unborn child shall be protected
31 from abortifacients, abortive acts and practices that induce abortion, including the use,
32 administration, dispensing, injection or delivery by whatever means of substances, medicines in
33 any form which endanger or expose the unborn child to damage, injury or death, whether
34 committed with or without violence, and whether committed with or without consent of the
35 mother.

36 The unborn child shall further be protected from the moment of conception from all
37 outside intervention including intentional intervention that could be medically considered as
38 abortive, during the natural process of growth of the fertilized ovum.



1 **SECTION 6. Parental Rights and State Power Over the Unborn Child.** – The rights of
2 the parents of a minor bearing an unborn child shall be superior to that of the State in instances
3 and issues involving the safety, protection and welfare of the unborn child and the mother, unless
4 the State must interfere and its laws must be enforced in order to protect the life and welfare of
5 the unborn child against abortion as well as all substances, practices and acts herein defined as
6 abortifacients or abortive acts.

7 **SECTION 7. Penalties for Prohibited Acts.** – The corresponding penalties for the crimes
8 of Intentional Abortion, Unintentional Abortion, Abortion Practiced by the Woman Herself or by
9 Her Parents, Abortion Practiced by a Physician or Midwife, and Dispensing of Abortive are
10 hereby increased. For this purpose, Articles 256, 257, 258 and 259 of the Revised Penal Code are
11 hereby amended to read as follows:

12 “Article 256. *Intentional abortion.* – Any person who shall intentionally cause an
13 abortion shall suffer:

- 14 1. The penalty of [*reclusion temporal*] RECLUSION PERPETUA, if he shall
15 use any violence upon the person of the pregnant woman.
- 16 2. The penalty of [*prision mayor*] RECLUSION TEMPORAL, if, without
17 using violence, he shall act without the consent of the woman.
- 18 3. The penalty of *prision* [*correccional* in its medium and maximum periods]
19 MAYOR, if the woman shall have consented.

20 “Article 257. *Unintentional abortion.* – The penalty of *prision* [*correccional*]
21 MAYOR in its minimum and medium periods shall be imposed upon any person
22 who shall cause an abortion by violence, but unintentionally.

23 “Article 258. *Abortion practiced by the woman herself or by her parents.* – The
24 penalty of *prision* [*correccional*] MAYOR in its medium and maximum periods
25 shall be imposed upon a woman who shall practice an abortion upon herself or
26 shall consent that any other person should do so.

27 Any woman who shall commit this offense to conceal her dishonor shall
28 suffer the penalty of *prision* [*correccional*] MAYOR in its minimum and medium
29 periods.

30 If this crime be committed by the parents of the pregnant woman or either
31 of them, and they act with the consent of said woman for the purpose of



1 concealing her dishonor, the offenders shall suffer the penalty of *prision*
2 [*correccional*] MAYOR in its medium and maximum periods.

3 “Article 259. *Abortion practiced by a physician or midwife and dispensing of*
4 *abortive.* – The penalties provided in Article 256 shall be imposed in their
5 maximum period, respectively, upon any physician or midwife who, taking
6 advantage of their scientific knowledge or skill, shall cause an abortion or assist in
7 causing the same.

8 Any pharmacist who, without the proper prescription from a physician, shall
9 dispense any abortive shall suffer [*arresto mayor*] PRISION CORRECCIONAL and a
10 fine not exceeding [1,000 pesos] ONE HUNDRED THOUSAND PESOS
11 (P100,000.00).”

12 Violators of this Act shall be civilly liable to the offended party in such amount at
13 the discretion of the court; Provided that, if the offender is a juridical person, the penalty
14 shall be imposed upon the President, Treasurer, Secretary or any responsible officer;
15 Provided, further, that, an offender who is an alien shall, after service of sentence, be
16 deported immediately without further proceedings by the Bureau of Immigration;
17 Provided, furthermore, that, an offender who is a public officer or employee shall suffer
18 the accessory penalty of dismissal from the government service.

19
20 **SECTION 8. *Separability Clause.*** – If any provision or part hereof is held invalid or
21 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
22 valid and subsisting.

23 **SECTION 9. *Repealing Clause.*** – All other laws, decrees, orders, issuances, rules and
24 regulations contrary to or inconsistent with the provisions of this Act are hereby repealed,
25 amended or modified accordingly.

26 **SECTION 10. *Effectivity.*** – The Act shall take effect thirty (30) days after its publication
27 in the Official Gazette.

28 *Approved,*

