



HOUSE OF REPRESENTATIVES

H. No. 4982

BY REPRESENTATIVES BAG-AO, ROMAN, OCAMPO, CASTELO, BAGUILAT, BELARO, ARAGONES, VILLARICA, VILLARIN, AGLIPAY-VILLAR, ZARATE, ALVAREZ (P.), FARIÑAS, BONDOC, DE VENECIA, ABAD, ONG (H.), BANAL, DEFENSOR, NOEL, GARIN (S.), CATAMCO, TUPAS, BORDADO, BELMONTE (J.C.), ROMUALDO, FORTUN, TURABIN-HATAMAN, ACOSTA-ALBA, ALVAREZ (M.), ROMUALDEZ, FERRER (J.), BAGATSING, ROA-PUNO, SILVERIO, RADAZA, BAUTISTA-BANDIGAN, ANTONIO, AGGABAO, HOFER, SY-ALVARADO, PACQUIAO, ARCILLAS, GARCIA (G.), ALONTE, BARZAGA, SARMIENTO (E.M.), NIETO, DAZA, DELOSO-MONTALLA, MACEDA, GO (A.C.), SANTOS-RECTO, SALIMBANGON, QUIMBO, VARGAS, VELASCO-CATERA, TEVES, OLIVAREZ, ALBANO, ALMARIO, ALMONTE, AMATONG, ANDAYA, ANGARA-CASTILLO, BIAZON, BILLONES, BOLILIA, BRAVO (A.), CAGAS, CALDERON, CAMINERO, CANAMA, CASTRO (F.H.), CERAFICA, CHAVEZ, COLLANTES, CORTES, CORTUNA, CUEVA, DEL MAR, DIMAPORO (M.K.), DURANO, ENVERGA, ERICE, ERIGUEL, FERNANDO, FLOIRENDO, FLORES, GATCHALIAN, GONZALEZ, GORRICETA, GULLAS, HERRERA-DY, KHO, LABADLABAD, LACSON, LAOGAN, LAZATIN, LOPEZ (B.), LOPEZ (C.), LOPEZ (M.L.), MANALO, MARQUEZ, MARTINEZ, MIRASOL, NOGRALES (J.J.), OAMINAL, ORTEGA (P.), ORTEGA (V.N.), PANOTES, RODRIGUEZ (I.), ROMERO, SALO, RAMIREZ-SATO, SAVELLANO, SIAO, SINGSON, TIANGCO, TINIO, UNGAB, UY (J.), UY (R.), ACHARON, MONTORO, VILLARAZA-SUAREZ, DEL ROSARIO, LAGMAN, NAVA, UYBARETTA, TREÑAS, RELAMPAGOS, DALIPE, PANGANIBAN, CAYETANO, BERNOS, DE JESUS, BROSAS, VIOLAGO, MERCADO, CASTRO (F.L.), SUANSING (E.), LIMKAICHONG, ROCAMORA, TAMBUNTING, BELMONTE (R.), VERGARA, CALIXTO-RUBIANO, EVARDONE, ROBES, GERON, PANCHO, ZAMORA (M.C.), SALCEDA, GONZAGA, TAN (S.), SARMIENTO (C.), SAGARBARRIA AND SUAREZ, PER COMMITTEE REPORT No. 101

AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF
SEXUAL ORIENTATION OR GENDER IDENTITY OR
EXPRESSION (SOGIE) AND PROVIDING PENALTIES
THEREFOR

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “SOGIE
2 Equality Act”.

3 SEC. 2. *Declaration of Policy.* – The State recognizes the
4 fundamental right of every person regardless of sex, age, class, status,
5 ethnicity, color, disability, religious and political beliefs, sexual orientation, or
6 gender identity or expression, to be free from any form of discrimination. It
7 shall therefore intensify its efforts to fulfill its duties under the Equal
8 Protection Clause and the Bill of Rights provisions of the Philippine
9 Constitution, and international and domestic laws to respect, protect, and
10 fulfill the rights and dignity of every individual.

11 Towards this end, the State shall exert efforts to address all forms of
12 discrimination, marginalization and violence on the basis of sexual orientation,
13 or gender identity or expression, and to promote human dignity as enshrined in
14 the United Nations Universal Declaration on Human Rights, the Convention
15 on the Elimination of All Forms of Discrimination Against Women,
16 particularly the General Recommendation No. 28 on Non-discrimination
17 Based on Sexual Orientation and Gender Identity, Convention on the Rights of
18 the Child, International Covenant on Civil and Political Rights, International
19 Covenant on Economic, Social and Cultural Rights, and all other relevant and
20 universally-accepted human rights instruments and other international
21 conventions to which the Philippines is a signatory. In the enforcement of this
22 Act, all due respect shall be accorded to the fundamental right of parents in the

1 upbringing of their children in accordance with their religious convictions.
2 In all matters, the best interest of children shall be paramount.

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

4 (a) *Child* refers to a person below eighteen (18) years of age or older
5 but who is incapable of taking care of oneself as defined under Republic Act
6 No. 7610, as amended;

7 (b) *Discrimination* refers to any distinction, exclusion, restriction, or
8 preference which is based on any ground such as sex, sexual orientation,
9 gender identity or expression, and which has the purpose or effect of nullifying
10 or impairing the recognition, access to, enjoyment, or exercise by all persons
11 on an equal footing of all rights and freedoms. The actual sex, sexual
12 orientation, or gender identity or expression of the person subjected to
13 discrimination shall not be relevant for the purpose of determining whether an
14 act of discrimination has been committed;

15 (c) *Gender expression* refers to the way a person communicates gender
16 identity to others through behavior, clothing, hairstyles, communication or
17 speech pattern, or body characteristics;

18 (d) *Gender identity* refers to the personal sense of identity as
19 characterized, among others, by manner of clothing, inclinations, and behavior
20 in relation to masculine or feminine conventions. A person may have a male
21 or female identity with the physiological characteristics of the opposite sex, in
22 which case this person is considered transgender;

23 (e) *Hate crimes* refer to criminal offenses committed against a person
24 or a group of persons, or against such targeted person's or group's honor or
25 property, motivated in whole or in part by the offender's bias against gender,
26 sexual orientation, gender identity or expression;

27 (f) *LGBT Community* refers to the collective of persons who are male
28 and female homosexuals (gays and lesbians, respectively), bisexual, and
29 transgender;

1 (g) *Marginalization* refers to a condition where a whole category of
2 people is excluded from useful and meaningful participation in political,
3 economic, social, and cultural life;

4 (h) *Sex* refers to male, female, or intersex. Intersex refers to people
5 born with the sex characteristics (including genitals, gonads and chromosome
6 patterns) that do not fit typical binary notions of male or female bodies, all of
7 which are natural bodily variations along a spectrum;

8 (i) *Sexual orientation* refers to the direction of emotional, sexual
9 attraction, or conduct towards people of the same sex (homosexual orientation)
10 or towards people of both sexes (bisexual orientation), or towards people of
11 the opposite sex (heterosexual orientation) or to the absence of sexual
12 attraction (asexual orientation); and

13 (j) *Stigma* refers to the dynamic devaluation and dehumanization of an
14 individual in the eyes of others which may be based on attributes that are
15 arbitrarily defined by others as discreditable or unworthy, and which result in
16 discrimination when acted upon.

17 SEC. 4. *Discriminatory Practices.* – It shall be unlawful for any
18 person, natural or juridical, to engage in discrimination as defined in this Act,
19 which shall include:

20 (a) Denying access to public services to any person on the basis of
21 sexual orientation or gender identity or expression;

22 (b) Including sexual orientation or gender identity or expression, as
23 well as the disclosure of sexual orientation, in the criteria for hiring,
24 promotion, transfer, designation, work assignment, reassignment, dismissal of
25 workers, and other human resource movement and action, performance
26 review, and in the determination of employee compensation, access to career
27 development opportunities, training, and other learning and development
28 interventions, incentives, privileges, benefits or allowances, and other terms
29 and conditions of employment: *Provided,* That this provision shall apply to

1 employment and skills training in both the private sector and public service,
2 including military, police, and other similar services: *Provided, further,* That
3 this prohibition shall likewise apply to the contracting and engaging of the
4 services of juridical persons;

5 (c) Refusing admission or expelling a person from any educational or
6 training institution on the basis of sexual orientation or gender identity or
7 expression, including discriminating against a student or trainee due to the
8 sexual orientation or gender identity or expression of the student's parents or
9 guardian: *Provided, however,* That the right of educational and training
10 institutions to determine the academic qualifications of their students or
11 trainees shall be duly upheld;

12 (d) Imposing disciplinary sanctions, penalties harsher than customary
13 or similar punishments, requirements, restrictions or prohibitions that infringe
14 on the rights of the students on the basis of sexual orientation or gender
15 identity or expression, including discriminating against a student or trainee due
16 to the sexual orientation or gender identity or expression of the student's
17 parents or guardian;

18 (e) Refusing or revoking the accreditation, formal recognition,
19 registration or plan to organize of any organization, group, political
20 party, institution, or establishment in educational institutions, workplaces,
21 communities, and other settings, solely on the basis of the sexual orientation or
22 gender identity or expression of their members or of their target
23 constituencies;

24 (f) Denying a person access to public or private medical and other
25 health services open to the general public on the basis of such person's sexual
26 orientation or gender identity or expression;

27 (g) Denying an application for or revoking a professional or other
28 similar kind of license, clearance, certification on, or any other similar

1 document, except marriage license, issued by the government due to the
2 applicant's sexual orientation or gender identity or expression;

3 (h) Denying a person access to or the use of establishments, facilities,
4 utilities, or services, including housing, open to the general public on the basis
5 of sexual orientation and gender identity and expression: *Provided*, That the
6 act of giving inferior accommodations or services shall be considered a denial
7 of access or use of such facility or service: *Provided, further*, That
8 establishments will make available the existing toilets with facilities
9 designated for persons with disabilities also as gender neutral toilets:
10 *Provided, finally*, That this prohibition covers acts of discrimination against
11 juridical persons solely on the basis of the sexual orientation or gender identity
12 or expression of their members or of their target constituencies;

13 (i) Subjecting or forcing any person to undertake any medical or
14 psychological examination to determine or alter, or both, the person's sexual
15 orientation or gender identity or expression without the expressed approval of
16 the person involved, except in cases where the person involved is a minor
17 and below the age of discernment in which case prior approval of the
18 appropriate Family Court shall be required. In the latter case, the child shall
19 be represented in the proceedings by the Solicitor General or the latter's
20 authorized representative;

21 (j) Harassment, coercion, or threats committed by members of
22 institutions involved in the enforcement of law and the protection of rights of
23 any person on the basis of sexual orientation or gender identity or expression.
24 Among other cases, prohibited acts under this section include arresting or
25 placing under custody, and subjecting a person to extortion, physical, verbal
26 abuse, or sexual abuse, regardless of whether such arrest has legal or factual
27 basis. Harassment, coercion, or threat of juridical persons on the basis of the
28 sexual orientation or gender identity or expression of their members,

1 stockholders, benefactors, clients, or patrons is likewise covered by this
2 provision;

3 (k) Publishing information intended to "out" or reveal the sex, sexual
4 orientation, or gender identity of persons without their consent, when such has
5 not been made known by the person/s concerned, and has been made with
6 malicious intent or is primarily motivated by a desire for commercial profit;

7 (l) Engaging in public speech, except religious speech meant to
8 shame, insult, vilify, or which tends to incite or normalize the commission of
9 discriminatory practices against LGBTs, and which acts or practices in turn,
10 intimidate them or result in the loss of their self-esteem;

11 (m) Subjecting persons or groups of persons to harassment generally
12 defined as such unwanted conduct, pattern of conduct, act, or series of acts
13 which tend to annoy, insult, bully, demean, offend, threaten, intimidate, alarm,
14 or create a hostile or emotionally distressing environment, or put them in fear
15 of their safety; and which behavior is motivated in whole or in part by the
16 offender's bias, belief, or perception regarding the offended party's gender,
17 sexual orientation, gender identity or expression, regardless of whether the
18 belief or perception is correct. Such prohibited act may include physical
19 assault, stalking, or making derogatory comments, slurs or lewd propositions,
20 and may be conducted through any form of medium including, but not limited
21 to, visual representation, broadcast communication, correspondence or
22 communication through mail or any telecommunication device, or through the
23 internet or cyberspace;

24 (n) Subjecting any person to gender profiling or to any investigatory
25 activities, which include (1) unnecessary, unjustified, illegal, or degrading
26 searches to determine whether an individual is engaged in an activity
27 presumed to be unlawful, immoral, or socially unacceptable; and (2) recording
28 and analyzing a person's psychological and behavioral characteristics to make

1 generalizations about a person's sexuality or to assist in identifying a
2 particular subgroup of people's sexual orientation or gender identity;

3 (o) Preventing a child under parental authority, custody, or
4 guardianship from exhibiting or expressing one's sexual orientation or gender
5 identity; or manifesting rejection of such child's sexual orientation or gender
6 identity or expression by inflicting or threatening to inflict bodily or physical
7 harm against the child or by causing mental or emotional suffering of the child
8 through intimidation, harassment, public ridicule or humiliation, repeated
9 verbal abuse, or other similar means or, in general, commit any act or omission
10 prejudicial to the welfare and interest of the child as a result of the bias against
11 the sexual orientation or gender identity of the child; and

12 (p) Subjecting a person to any other analogous acts that shall have the
13 effect or purpose of impairing or nullifying the enjoyment, recognition, or
14 exercise of a person's rights and freedoms.

15 SEC. 5. *Privacy Rights.* – No person shall be burdened, prejudiced, or
16 prosecuted by reason of the exercise of the right to personal privacy.

17 SEC. 6. *Administrative Sanctions.* – Refusal of a government official
18 whose duty is to investigate, prosecute, or otherwise act on a complaint for a
19 violation of this Act or causing unreasonable delay to perform such a duty
20 without a valid ground shall constitute gross negligence on the part of the
21 official who shall suffer the appropriate penalty under civil service laws, rules
22 and regulations.

23 SEC. 7. *Penalties.* – A person who commits any discriminatory
24 practice described in Section 4 of this Act shall, upon conviction, be penalized
25 by a fine of not less than one hundred thousand pesos (P100,000.00) but not
26 more than five hundred thousand pesos (P500,000.00) or imprisonment of not
27 less than one (1) year but not more than six (6) years, or both, at the discretion
28 of the court. In addition, the court may impose upon a person found to have
29 committed any of the prohibited acts the rendition of community service in

1 terms of attendance in human rights education's familiarization with and
2 exposure to the plight of the victims.

3 If the violation or offense is committed by a corporation, partnership,
4 association or other juridical entities, the penalty provided for in this section
5 shall be imposed upon the directors, officers, employees or other officials or
6 persons therein responsible for the offense without prejudice to the civil
7 liabilities arising from the criminal offense.

8 If a graver offense motivated by bias, prejudice, or hatred against
9 sexual orientation or gender identity or expression is committed, such shall be
10 meted the corresponding maximum penalties.

11 Any action arising from the violation of the provisions of this Act shall
12 prescribe in three (3) years.

13 Nothing in this Act shall preclude the victim from instituting a separate
14 and independent action for damages and other affirmative reliefs or such other
15 cases for violation of other applicable penal laws. Further, nothing in this Act
16 shall be construed as giving authority to the State to unduly interfere with the
17 legitimate exercise by the parents or the guardians of their right to discipline a
18 child under their parental authority, custody or guardianship.

19 The penalties provided under this section shall be meted without
20 prejudice to the imposition of administrative liability for government officials
21 and employees.

22 *SEC. 8. Special Aggravating Circumstance.* – A person who commits
23 any of the crimes in the Revised Penal Code or any special law and who is
24 proven to have committed the same motivated by bias, prejudice, or hate based
25 on sex, sexual orientation, or gender identity or expression, shall suffer the
26 maximum penalty imposed by the Code or the relevant special law for such
27 prohibited act.

1 SEC. 9. *Redress Mechanisms for SOGIE-related Cases.* –

2 (a) Inclusion of SOGIE Concerns in All Police Station Activities and
3 Services – The Women and Children’s Desks now existing in all police
4 stations shall be renamed as Women, Children and LGBTQ++ Protection
5 Desk, which shall also act on and attend to complaints/cases covered by this
6 Act. In this regard, police handling said desks shall undergo appropriate
7 trainings with human rights-based approach to include, among others, gender
8 sensitivity and awareness in proper terminology, dynamics of lesbian, gay,
9 bisexual, and transgender (LGBT) relationships and hate crime investigations.

10 Complainant-minors can be represented by parents, guardians, or a
11 nongovernment organization of good standing and reputation.

12 (b) Role of the Commission on Human Rights (CHR) – The CHR
13 shall investigate and recommend the filing of a complaint against any person
14 violating this Act. If the CHR has reasonable cause to believe that any person
15 or group of persons is committing acts penalized in Section 4 of this Act, the
16 CHR shall recommend a legal action in the appropriate prosecutor’s office or
17 court.

18 The CHR shall also direct the officer concerned to take appropriate
19 action against a public officer or employee at fault or who neglects to perform
20 an act or discharge a duty required under this Act, and recommend the
21 revocation of license, removal from office or employment, suspension,
22 demotion, fine, censure, or prosecution, and ensure compliance therewith.
23 Refusal by any officer without just cause to act on the recommendation of the
24 CHR to revoke the license, remove, suspend, demote, fine, censure, or
25 prosecute an officer or employee who is at fault, or who neglects to perform an
26 act or discharge a duty required under this Act, shall be a ground for
27 disciplinary action against said officer.

28 The CHR shall also document cases of discrimination on the basis of
29 sexual orientation or gender identity or expression and shall include these

1 documented cases in its annual human rights report. The CHR shall actively
2 provide recommendations to different branches of government on how to
3 address and eliminate discrimination on the basis of sexual orientation or
4 gender identity or expression.

5 SEC. 10. *Government Programs and Policies.* – The State shall
6 pursue initiatives and programs that seek to establish and maintain an
7 environment free of stigma and discrimination. It shall direct the machinery
8 and resources of the State to promote nondiscrimination and shall encourage
9 other sectors of the society to engage and participate in these efforts. It shall
10 ensure the implementation of the following programs:

11 (a) *Social Protection Programs* – The national government shall
12 ensure that communities vulnerable to stigma and discrimination on the basis
13 of sexual orientation or gender identity or expression are integrated into
14 government-run social protection programs; and

15 (b) *Diversity Programs and Trainings* – All government agencies,
16 including government-owned and -controlled corporations, local government
17 units (LGUs), private companies, public and private education institutions, and
18 other entities shall establish diversity programs and shall endeavor to provide
19 or conduct trainings for their staff, employees, students and trainees, and
20 constituents on human rights, gender sensitivity and awareness, and
21 sensitization on the issue of violence and abuse to ensure that human rights
22 violations and violence on the basis of sexual orientation or gender identity or
23 expression are prevented. Such institutions may incorporate these activities
24 into existing gender sensitivity and development training programs or school
25 curricula. Finally, the above-listed agencies, companies and institutions shall
26 create an internal redress mechanism to address cases of discrimination and
27 develop administrative remedies or sanction for such cases.

28 SEC. 11. *Empowering Portrayal of LGBT Persons in Media.* – The
29 positive and empowering portrayal of LGBT by media shall be encouraged to

1 counter existing stereotypes and misconceptions that often lead to
2 discriminatory practices. Towards this end, incentives and awards shall be
3 provided to programs that defend the human rights of LGBT and contribute to
4 the empowerment of the LGBT community and its members.

5 SEC. 12. *SOGIE Equality Oversight Committee.* – For the effective
6 implementation of this Act, there shall be created a Congressional Oversight
7 Committee, hereinafter referred to as the SOGIE Equality Oversight
8 Committee, within sixty (60) days after the enactment of this Act. The SOGIE
9 Equality Oversight Committee shall be composed of five (5) members each
10 from the Senate and the House of Representatives, which shall include the
11 Chairpersons of the Senate Committees on Women, Children, Family
12 Relations and Gender Equality, and of Justice and Human Rights, and the
13 Chairpersons of the House of Representatives Committees on Women and
14 Gender Equality, and of Human Rights. The members from the Senate and the
15 House of Representatives shall be appointed by the Senate President and the
16 Speaker, respectively, with at least one (1) member representing the minority.

17 The SOGIE Equality Oversight Committee shall be chaired jointly by
18 the Chairpersons of the Senate Committee on Women, Children, Family
19 Relations and Gender Equality and the House Committee on Women and
20 Gender Equality. The position of Vice Chairperson of the SOGIE Equality
21 Oversight Committee shall be jointly held by the Chairpersons of the Senate
22 Committee on Justice and Human Rights and the House Committee on Human
23 Rights. The Secretariat of the SOGIE Equality Oversight Committee shall
24 come from the Secretariat personnel of the Senate and the House of
25 Representatives committees concerned.

26 The SOGIE Equality Oversight Committee shall monitor the
27 compliance of public institutions to the provisions of this Act. Within three
28 (3) years after the enactment of this Act, the SOGIE Equality Oversight
29 Committee shall conduct an audit of national and local policies that

1 discriminate on the basis of sexual orientation or gender identity and
2 expression, and shall submit a report to Congress, the Office of the President,
3 and the Supreme Court on this subject.

4 The SOGIE Equality Oversight Committee shall cease to exist six (6)
5 years after its organization.

6 SEC. 13. *Implementing Rules and Regulations.* – Within sixty (60)
7 days from the effectivity of this Act, the CHR, the Department of Justice
8 (DOJ), the Civil Service Commission (CSC), the Philippine National Police
9 (PNP), the Department of National Defense (DND), the National Youth
10 Commission (NYC), the Philippine Commission on Women (PCW), the
11 Commission on Population (POPCOM), the Department of Labor and
12 Employment (DOLE), the Department of Education (DepED), the
13 Commission on Higher Education (CHED), the Technical Education and
14 Skills Development Authority (TESDA), the Department of Health (DOH),
15 and at least three (3) civil society organizations (CSOs) with proven expertise
16 and track record on SOGIE concerns, shall promulgate the necessary rules and
17 regulations for the effective implementation of the provisions of this Act.

18 SEC. 14. *Separability Clause.* – If any provision of this Act is
19 declared unconstitutional or otherwise invalid, the validity of the other
20 provisions shall not be affected thereby.

21 SEC. 15. *Repealing Clause.* – All laws, decrees, orders, rules and
22 regulations, or parts thereof inconsistent with this Act are hereby repealed or
23 modified accordingly.

24 SEC. 16. *Effectivity.* – This Act shall take effect fifteen (15) days after
25 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

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