

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
SEVENTEENTH CONGRESS
First Regular Session
House Bill No. **1854**

HOUSE OF REPRESENTATIVES	
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Introduced by **Hon. Sol Aragon**

EXPLANATORY NOTE

In 2010, women's group Isis International said transgender Filipino women are especially vulnerable to employment-based discrimination. Many corporations hinge employment prospects on gays and transgender persons following traditional dress codes.

In 2011, lesbian, gay, bisexual, and transgender (LGBT) activists submitted to the United Nations two reports on the human rights violations against LGBT people in the Philippines. The Psychological Association of the Philippines, in 2011, called for an end to discrimination based on sexual orientation, gender identity and expression.

In one report named "The Status of LGBT Rights in the Philippines, Submission to the Human Rights Council for the Universal Periodic Review 13th Session," the groups Rainbow Rights Project (R-Rights) and the Philippine LGBT Hate Crime Watch (PLHCW) co-authored a documentation of different abuses based on sexual orientation and gender identity in the country since 2007. Another report entitled "A Report on Violations of Human Rights Based on Sexual Orientation and Gender Identity in the Philippines" was authored by the Progressive Organization of Gays in the Philippines (ProGay).

Education and sports institutions also represent problems for young Filipino men attracted to the same sex, according to a 2013 Philippine Journal of Psychology study by Eric Manalastas. In a 2015 news report, it was said that LGBT Filipinos are still endangered by physical acts of bigotry and by a pervasive discrimination that infringes on their basic economic and human rights. Former Commission on Human Rights Chair Etta Rosales in 2013 cited 141 cases of abuse against members of the LGBT community.

Apart from the bullying and harassment, members of the community say that they are often pigeonholed into limited roles and occupations. Outside of these assigned roles, they are expected to curb their identities and expressions "as conditions for their social acceptance and enjoyment of rights."

Scouring data from the Young Adult Fertility and Sexuality Survey, Manalastas found that young gays, between the ages of 15 and 24, contemplate suicide more than their heterosexual peers, although they may not act on it. He cited as factors experiences of threat and victimization.

These reports highlight the very real and pressing problem confronting the LGBT community in the Philippines. There can be no true and meaningful democracy if we continue to systematically oppress the LGBT community and turn a blind eye to the abuses committed against them. This bill seeks to address these problems and correct the impression that the Government is powerless to help the LGBT sector. It is based on the consolidated bills that have been filed for the benefit of the LGBT community in the Sixteenth Congress. The immediate approval of this measure is earnestly sought.


SOL ARAONES
Representative, 3rd District of Laguna

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Introduced by **Hon. Sol Aragones**

1 AN ACT
2 PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION
3 AND GENDER IDENTITY, PROVIDING PENALTIES THEREFOR
4 AND FOR OTHER PURPOSES
5

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

6 SECTION 1. *Title.* – This Act shall be known as “The Anti-Discrimination Act of
7 2016.”

8 SECTION 2. *Declaration of Policy.* – It is the policy of the State to work actively for
9 the elimination of all forms of discrimination that offends the equal protection clause of the
10 Bill of Rights and the State obligations under human rights instruments acceded to by the
11 Republic of the Philippines, particularly those discriminatory practices based on sexual
12 orientation and gender identity. Towards this end, discriminatory practices as defined herein
13 shall be prohibited and penalized.

14 SECTION 3. *Definition of Terms.* – For the purposes of this Act, the term:

15 (A) “Discrimination” shall be understood to mean any distinction, exclusion,
16 restriction, or preference which is based on any ground such as sex, sexual orientation,
17 gender identity, whether actual or perceived, and which has the purpose or effect of nullifying
18 or impairing the recognition, enjoyment, or exercise by all persons of an equal protection in
19 their rights and freedoms.

1 (B) "Gender identity" refers to the personal sense of identity as characterized, among
2 others, by manners of clothing, inclinations, and behavior in relation to masculine or feminine
3 conventions. A person may have a male or female identity with the physiological
4 characteristics of the opposite sex.

5 (C) "Sexual orientation" refers to the direction of emotional attraction or conduct.
6 This can be towards people of the same sex (homosexual orientation) or towards people of
7 both sexes (bisexual orientation) or towards people of the opposite sex (heterosexual
8 orientation).

9 Sexual orientation is not equivalent to sexual behavior which refers to feelings and
10 self-concept. A person may or may not express their sexual orientation in their behavior.

11 SECTION 4. *Discriminatory Practices.* – It shall be unlawful for any person, natural
12 or juridical, to:

13 (A) Deny access to public service, including military service, to any person on the
14 basis of sexual orientation and/ or gender identity;

15 (B) Include sexual orientation and gender identity, as well as the disclosure of
16 sexual orientation, in the criteria for hiring, promotion, and dismissal of workers, and in the
17 determination of employee compensation, training, incentives, privileges, benefits, or
18 allowances, and other terms and conditions of employment;

19 This prohibition on the basis of sexual orientation and gender identity shall also
20 include the contracting and engaging of services of juridical persons.

21 (C) Refusal of admission or expulsion of a person from an educational institution
22 on the basis of sexual orientation and gender identity, without prejudice to the right of
23 educational institutions to determine the academic qualifications of their students;

1 This prohibition shall include the imposition of (i) disciplinary sanctions solely on the
2 bases of sexual orientation and gender identity; (ii) harsher penalties that are primarily due to
3 sexual orientation and/or gender identity; or (iii) similar punishment and/or prohibitions.

4 (D) Refusal or revocation of the accreditation, formal recognition, and/or
5 registration of any organization, group, political party, institution or establishment, in
6 educational institutions, workplaces, communities, and other settings, solely on the basis of
7 the sexual orientation or gender identity of their members or their target constituencies;

8 This prohibition shall also include the prevention of and prohibitions on attempts to
9 organize.

10 (E) Deny a person access to medical and other health services open to the general
11 public on the basis of such person's sexual orientation or gender identity.

12 (F) Deny an application for or revoke a professional license issued by the
13 government due to the applicant's sexual orientation or gender identity.

14 (G) Deny a person access to the use of establishments, facilities, utilities, or
15 services, including housing, open to the general public on the basis of sexual orientation or
16 gender identity; There is a denial when a person is given inferior accommodations or
17 services;

18 This prohibition includes the discrimination of juridical persons solely on the basis of
19 the sexual orientation or gender identity of their members or of their target constituencies;

20 (H) Subject or force any person to any medical or psychological examination to
21 determine and/or alter the person's sexual orientation or gender identity without the express
22 approval of the person involved, except in cases where the person involved is a minor under
23 the age of discernment in which case the approval of the appropriate Family Court shall be
24 required. In the latter case, the child shall be represented in the proceeding by the Solicitor
25 General or his authorized representative;

(I) Harassment by members of institutions involved in the enforcement of law and the protection of rights, such as the Philippine National Police and the Armed Forces of the Philippines, of any person on the basis of his or her sexual orientation or gender identity. Among other cases, harassment occurs when a person is arrested or otherwise placed in the custody and extortion, physical or verbal abuse takes place, regardless of whether such arrest has legal or factual basis. Harassment of juridical persons on the basis of the sexual orientation or gender identity of their members, stockholders, benefactors, clients, or patrons is likewise covered by this provision;

(J) Deny an application for license, clearance, certification, or any other document issued by governmental authorities on the basis of the applicant's sexual orientation and gender identity; and

(K) Damage the honor or reputation of a person or group of persons to which one belongs to, on account of his or his group's actual or supposed sexual orientation or gender identity.

SECTION 5. *Administrative Sanctions.* – The refusal of a government official whose duty is to investigate, prosecute, or otherwise act on a complaint for a violation of this Act to perform such duty without a valid ground shall constitute gross negligence on the part of such official who shall suffer the appropriate penalty under civil service laws, rules, and regulations.

SECTION 6. *Penalties.* –

(A) Persons found guilty of any of the discriminatory practices enumerated under Section 4 shall be penalized with a fine of not less than Two Hundred Fifty Thousand Pesos (P250,000.00) but not to exceed Five Hundred Thousand Pesos (P500,000.00) or imprisonment of not less than one (1) year but not more than six (6) years, or both at the discretion of the court. In addition, community service in terms of human rights education to

1 the perpetrator and exposure to the plight of the victims can be imposed at the discretion of
2 the court.

3 (B) The penalty contained herein is without prejudice to the award of damages to the
4 aggrieved party, as may be proved during trial. The institution of a criminal action shall
5 impliedly include the civil action, unless a separate civil action has been filed or a reservation
6 for the filing of such action is made.

7 (C) The officials directly involved shall be liable for violations committed by
8 corporations, organizations, or similar entities.

9 SECTION 7. *Special Aggravating Circumstance.* – Any person who commits any of
10 the felonies enumerated in Title Eight, Book Two (Crimes Against Persons) and Title Eleven,
11 Book Two (Crimes Against Chastity) of the Revised Penal Code, and who is proven to have
12 committed the same motivated by bias, prejudice, or hate based on sex, sexual orientation, or
13 gender identity, shall suffer the maximum penalty imposed by the Code for such felony.

14 SECTION 8. *Creation of LGBT Desks in all Police Stations.* – Aside from the
15 Women’s Desks now existing in all police stations, the Philippine National Police shall also
16 establish Lesbian, Gay, Bisexual, and Transgender (LGBT) desks in all police stations
17 throughout the country to administer and attend to the cases covered by this Act against
18 members of the LGBT community and other similar offenses.

19 SECTION 9. *Separability Clause.* – If any provision of this Act is held invalid or
20 unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain
21 valid and subsisting.

22 SECTION 10. *Repealing Clause.* – Any law, presidential decree or issuance,
23 executive order, letter of instruction, administrative rule or regulation contrary to or
24 inconsistent with the provisions of this Act is hereby repealed, modified or amended
25 accordingly.

1 SECTION 11. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
2 publication in at least two newspapers of general circulation.

3 Approved,