

Republic of the Philippines
Congress of the Philippines
Metro Manila
Eighteenth Congress
First Regular Session



Introduced by:

Juan Fidel Felipe F. Nograles
Second District
Province of Rizal
4888

Explanatory Note

The 1987 Constitution, as the primordial governing law of the land, recognizes equality as a state policy. Towards this end, the State shall exert efforts to address all forms of inequality that endanger the very fabric of the Philippine society. The State shall recognize the fundamental right of every person, regardless of sex, age, class, status, ethnicity, color, disability, religious and political beliefs, sexual orientation or gender identity, to be free from any form of discrimination. It shall therefore intensify its efforts to fulfill its duties under international and domestic laws to respect, protect and fulfill the rights and dignity of all, to promote human dignity as enshrined in the United Nations Universal Declaration on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, particularly the General Recommendation No. 28 on Non-discrimination Based on Sexual Orientation and Gender Identity, Convention on the Rights of the Child, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and all other relevant and universally accepted human rights instruments and other international conventions to which the Philippines is a signatory.

R.A. 9262 or An Act Defining Violence Against Women And Their Children has been recognized as an extra-ordinary measure that provided protection to women and their children against various kinds of violence. The Philippine society, however, is also composed of non-homogenous genders with diverse sexual orientation, gender identity and expression. These genders may identify with what is commonly called the LGBTQ Community. Our history is also replete with record of events that show that both women and the LGBTQ Community are marginalized sectors in the Philippine society,

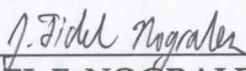
experiencing discrimination, violence and hate crimes. The United Nations has also released some evidence that violence in partnerships also happen to other genders and sex other than that of women. Thus, these other sexual orientation and gender identify and expression in partnerships need protection against violence and discrimination.

The State shall recognize the vital importance of understanding that diverse gender forms part of a person's identity. The State shall provide equal protection to these marginalized sectors and denounce violence done against them. The State, in keeping faith of its mandate, shall prevent various economic and public accommodation-related acts of discrimination against people based on their sexual orientation, gender identity or expression. The State shall recognize that everyone is born free and equal in dignity and rights.

This bill, therefore, seeks to amend R.A. 9262, otherwise known as the "Anti-Violence Against Women and their Children Act of 2004" by expanding the coverage from women to all those who suffer violence from their partners.

This bill shall prohibit all forms of violence against partners and their children, in private and public life, and provides maximum protection and effective remedies for victims and punishment of offenders. Thus, the bill also expands the covered acts under R.A. 9262 to include electronic violence done against partners and their children.

In view of the foregoing, the passage of this bill is respectfully requested.



FIDEL F. NOGRALES

Republic of the Philippines
Congress of the Philippines

Metro Manila

Eighteenth Congress

First Regular Session

House Bill No. 4888

September 2019

Juan Fidel Felipe F. Nograles, 2nd District, Rizal

**AN ACT AMENDING R.A. No. 9262 or "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES",
EXPANDING ITS COVERAGE AND COVERED ACTS PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES.**

Be it enacted by the House of Representatives of the Philippine Congress Assembled:

SECTION 1. Section 1 of R. A. No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" is hereby amended to be read as follows:

"SECTION 1. Short Title.- This Act shall be known as the " **Anti-Violence Against Partners and their Children Act or Anti-VAPC Law."**

SECTION 2. Section 2 of the same law is hereby amended as follows:

"SECTION 2. Declaration of Policy.- It is hereby declared that the State values the dignity of women, children and marginalized genders and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly men, women and members of the LGBTQ Community and children, from violence and threats to their personal safety and security."

"Towards this end, the State shall exert efforts to address violence committed against women, men, and members of the LGBTQ Community that are in a partnership and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human

Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party."

SECTION 3. Section 3 of the same law is hereby amended as follows:

"SECTION 3. Definition of Terms.- As used in this Act,

(a) "*Violence against partners and their children*" refers to any act or a series of acts committed by any person against their spouse, former spouse, partner, former partner, or against any other person with whom they have or had a sexual or dating relationship, or with whom they have a common child, or against the other person's child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.

The term "partner" includes intimate relationships of heterosexual, lesbian, gay, bisexual, queer, intersex, cisgender, and transgender partners.

The acts of violence against partners includes, but is not limited to, the following acts:

A. "*Physical Violence*" refers to acts that include bodily or physical harm;

B. "*Sexual violence*" refers to an act which is sexual in nature, committed against a partner or their child. It includes, but is not limited to:

a) rape, sexual harassment, acts of lasciviousness, treating a partner or their child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing them to watch obscene publications and indecent shows or forcing the partner or their child to do indecent acts and/or make films thereof, forcing the partner to live in the conjugal home or common home or sleep together in the same room with the abuser;

b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;

c) Prostituting the partner or their child.

C. "*Psychological violence*" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation,

harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

Psychological violence shall also include electronic or Information Communication Technology (ICT)-related violence which is any act or omission involving the use or exploitation of data or any form of ICT which causes or is likely to cause mental, emotional, or psychological distress or suffering to the partners and their children. This includes any forms of harassment, intimidation, coercion, threat, or vilification of the partner and their children through any form, as well as any form of stalking including hacking of personal accounts on social media and the use of location data from electronic devices, fabrication of fake information or news through text messages or other cyber, electronic, or multimedia technology.

D. "*Economic abuse*" refers to acts that make or attempt to make a partner financially dependent which includes, but is not limited to the following:

1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;
3. destroying household property;
4. controlling the victims' own money or properties or solely controlling the conjugal or common money or properties.

xxx

d. "Discrimination" - refers to any distinction, exclusion, restriction, or preference based on the grounds of sex, sexual orientation, gender identity or expression, and has the purpose or effect of nullifying or impairing the recognition, access to, enjoyment, or exercise by all persons on an equal footing of all rights and freedoms. For purposes of this provision, the actual sex, sexual orientation or gender identity of the person subjected to discrimination shall not be relevant for the purpose of determining whether an act of discrimination has been committed.

e. "Hate crime" refers to a criminal act or bias crime motivated by another person's race, color, religion, national origin, gender, sexual orientation, gender identity, or disability.

SECTION 4. Section 5 of the same law is amended to include the following:

"SECTION 5. Acts of Violence Against Partners and Their Children.- The crime of violence against partners and their children is committed through any of the following acts:

xxx

J. Creating fake social media accounts using an alias or a different personal information with ill-intent and malice to sow intrigue and inflict harm.

SECTION 5. Special Aggravating Circumstance. Any acts of violence perpetuated as hate crimes against partners and their children which includes discrimination on the grounds of sex, sexual orientation, gender identity or expression shall be considered as a special aggravating circumstance where the penalty shall be imposed on its maximum period.

SECTION 6. A new section to be numbered as Section 32 is hereby inserted after Section 31 of the same law to read as follows:

"SECTION 32. National Consciousness Day for the Elimination Of Violence Against Women, Children and Marginalized Genders. In recognition of the need to establish a comprehensive and structured campaign for national consciousness on anti-violence against partners, November 25 of every year is hereby declared as the "National Consciousness Day For The Elimination Of Violence Against Women, Children And Marginalized Genders."

All subsequent sections of the same law are renumbered accordingly.

SECTION 7. Section 33 of the same law is amended and renumbered as Section 34 to read as follows:

"xxx

Willful 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 a duty without a valid ground shall constitute gross negligence on the part of the public official and shall be subject to administrative sanctions."

SECTION 8. Section 39 of the same law is amended and renumbered as Section 40 to include the following:

"SECTION 40. Inter-Agency Council on Violence Against Partners and Their Children (IAC-VAIPC). In pursuance of the abovementioned policy, there is hereby established an Inter-Agency Council on Violence Against Partners and their children, hereinafter known as the Council, which shall be composed of the following agencies:

- (a) Department of Social Welfare and Development (DSWD);
- (b) National Commission on the Role of Filipino Women (NCRFW);
- (c) Civil Service Commission (CSC);
- (d) Commission on Human rights (CHR)
- (e) Council for the Welfare of Children (CWC);
- (f) Department of Justice (DOJ);
- (g) Department of the Interior and Local Government (DILG);
- (h) Philippine National Police (PNP);
- (i) Department of Health (DOH);
- (j) Department of Education (DepEd);
- (k) Department of Labor and Employment (DOLE); and
- (l) National Bureau of Investigation (NBI).
- (m) Department of Foreign Affairs
- (n) Movie and Television Review and Classification Board (MTRCB),
- (o) Philippine Commission on Women (PCW)
- (q) Department of Information and Communications Technology (DICT)
- (r) Commission on Overseas Filipinos
- (t) 2 representatives from civil society organizations.

xxx"

SECTION 9. Any reference to woman/women in the same law shall also refer to "partner/s" of other sexual orientation and gender identity and expression, without prejudice to any law providing distinction and limitations to the rights of men and women including the Civil Code and the Family Code.

SECTION 10. *Suppletory Application* – For purposes of this Act, the Revised Penal Code and other applicable laws, shall have suppletory application.

SECTION 11. *Separability Clause*. – If any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions shall not be affected.

SECTION 12. *Repealing Clause* – All laws, Presidential decrees, executive orders and rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 13. *Effectivity* – This Act shall take effect fifteen (15) days from the date of its complete publication in at least two (2) newspapers of general circulation.

Approved,