



Eighteenth Congress
First Regular Session
HOUSE BILL NO. 0640



introduced by
REPRESENTATIVE LOREN B. LEGARDA

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

EXPLANATORY NOTE

The 1987 Constitution guarantees the right of every Filipino to equal protection of the laws and full respect of human rights as well as the right to life, to be free from torture, to freedom of expression, and to be free from any type of discrimination. However, many reports, studies and surveys show that discrimination based on sexual orientation and gender identity or expression (SOGIE) persists in our society.

Numerous members of the lesbians, gays, bisexuals, transgender, intersex, and queers (LGBTIQ) community have related unfortunate incidents of harassment and aggravation by individuals or groups who seemed to lack recognition, appreciation, and understanding of SOGIE. According to a study conducted by the United Nations (UN), thirty (30%) percent of LGBTIQs reported harassment and discrimination cases while at work due to their SOGIE. Moreover, based on the 2018 survey from Rainbow Rights Philippines, six in every ten LGBTIQs have experienced discrimination, of which most cases happened in schools. Based on another study conducted by the Philippine LGBT Chamber of Commerce and research firm

Cogencia, out of the 100 companies surveyed, no Philippine-based companies were found to implement policies to protect employees from SOGIE-based discrimination.

Thus, this proposed measure seeks to address this concern and to secure the welfare of not only the LGBTIQ community but also all Filipinos of any class, status, ethnicity, color, and beliefs. This measure intends to help recognize the rights of the LGBTIQ so they can fully enjoy such rights, and to provide them the opportunities to develop their skills and reach their full potential as individuals and as members of the Filipino society.

In view of the foregoing, the passage of this bill is earnestly sought.



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*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 and cited as the "Anti-
2 *Discrimination Act of 2019.*"

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

9 Towards this end, the State shall exert efforts to address all forms of
10 discrimination and violence on the basis of sexual orientation or gender identity or
11 expression and to promote human dignity as enshrined in the United Nations Universal
12 Declaration on Human Rights, the Convention on the Elimination of All Forms of
13 Discrimination Against Women, particularly the General Recommendation No. 28 on

1 Non-discrimination based on Sexual Orientation and Gender Identity, Convention on
2 the Rights of the Child, International Covenant on Civil and Political Rights,
3 International Covenant on Economic, Social and Cultural Rights and all other relevant
4 and universally accepted human rights instruments and other international
5 conventions to which the Philippines is a signatory of.

6 SEC. 3. *Definition of Terms.* — As used in this Act, the following terms shall be
7 defined as follows:

- 8 a. *Discrimination* - refers to any distinction, exclusion, restriction, or preference
9 based on the ground sex, sexual orientation, gender identity or expression,
10 hereinafter referred to as "SOGIE", and has the purpose or effect of
11 nullifying or impairing the recognition, access to, enjoyment, or exercise by
12 all persons on an equal footing of all rights and freedoms. For purposes of
13 this provision, the actual sex, sexual orientation or gender identity of the
14 person subjected to discrimination shall not be relevant for the purpose of
15 determining to whether an act of discrimination has been committed.
- 16 b. *Gender Expression* - refers to the outward manifestations of the cultural traits
17 that enable a person to identify as male or female according to patterns that,
18 at a particular moment in history, a given society defines as gender
19 appropriate.
- 20 c. *Gender Identity* - refers to the personal sense of identity as characterized,
21 among others, by manner of clothing, inclinations, and behavior in relation
22 to masculine or feminine conventions. A person may have a male or female
23 identity with the physiological characteristics of the opposite sex.
- 24 d. *Profiling* - refers to subjecting a person or group of persons to investigatory
25 activities, which include unnecessary, unjustified, illegal, and degrading
26 searches, or other investigatory activities, in determining whether an

1 individual is engaged in an activity presumed to be unlawful, immoral or
2 socially unacceptable.

3 e. *Sexual Orientation* - refers to the direction of emotional sexual attraction or
4 conduct. This can be towards people of the same sex (homosexual
5 orientation) or towards people of both sexes (bisexual orientation) or
6 towards people of the opposite sex (heterosexual orientation).

7 f. *Stigma* - refers to the dynamic devaluation and dehumanization of an
8 individual in the eyes of others which may be based on attributes that are
9 arbitrarily defined by others as discreditable or unworthy and which result in
10 discrimination when acted upon.

11 SEC. 4. *Communities Vulnerable to Discrimination and Abuse on the Basis of*
12 *SOGIE*. - This Act seeks to protect individuals and communities that experience
13 human rights violations on the basis of SOGIE, including, but not limited to, individuals
14 and communities of diverse sexual orientation or gender identity or expression who
15 are children, young, poor, differently abled, of different ethnic background or cultural
16 background, and of various religious beliefs.

17 SEC. 5. *Discriminatory Practices*. - It shall be unlawful for any person, natural
18 or juridical, to:

19 a. Promote and encourage stigma on the basis of SOGIE in the media, in
20 educational textbooks, and other medium. Inciting violence and sexual
21 abuse against any person or group on the basis of SOGIE is likewise
22 prohibited;

23 b. Include SOGIE, as well as the disclosure of sexual orientation, in the criteria
24 for hiring, promotion, transfer, designation, work assignment, re-
25 assignment, dismissal of workers, and other human resource movement
26 and action, performance review and in the determination of employee,
27 compensation, career development opportunities, training, and other

1 learning and development interventions, incentives, privileges, benefits or
2 allowances, and other terms and conditions of employment: *Provided*, That
3 this provision shall apply to employment in both the private sector and
4 public service, including military, police and other similar services; *Provided*
5 *further*, That this prohibition shall likewise apply to the contracting and
6 engaging of the services of associations or organizations with lesbians,
7 gays, bisexuals, transgenders, intersex, or queers (LGBTIQs) members or
8 of associations or organizations advocating LGBTIQs rights;

- 9 c. Refuse admission or expel a person from any educational or training
10 institution on the basis of SOGIE: *Provided*, however, That the right of
11 educational and training institutions to determine the academic
12 qualifications of their students or trainees shall be duly upheld;
- 13 d. Impose disciplinary sanctions, penalties harsher than customary or similar
14 punishments, requirements, restrictions, or prohibitions that infringe on the
15 rights of the students on the basis of SOGIE, including discriminating
16 against a student or trainee due to the SOGIE of the student's parents or
17 legal guardian;
- 18 e. Refuse or revoke the accreditation, formal recognition, registration or plan
19 to organize of any organization, group, political party, institution or
20 establishment, in educational institutions, workplaces, communities, and
21 other settings, solely on the basis of the SOGIE of their members or of their
22 target constituencies;
- 23 f. Deny a person access to public or private medical and other health services
24 open to the general public, as well as access to public and private health
25 insurance, including HMOs, on the basis of SOGIE;
- 26 g. Deny an application for or revoke, on the basis of SOGIE, any government
27 license, authority, clearance, permit, certification, or other similar

1 documents necessary to exercise a profession, business, or any other
2 legitimate calling;

3 h. Deny a person, access to or the use of establishments, facilities, utilities or
4 to services, including housing, open to the general public on the basis of
5 SOGIE: *Provided*, That the act of giving inferior accommodations or
6 services shall be considered a denial of access or use of such facility or
7 service; *Provided further*, That this prohibition covers acts of discrimination
8 against juridical persons solely on the basis of the SOGIE of their members
9 or of their target constituencies;

10 i. Subject or force any person to undertake any medical or psychological
11 examination to determine or alter the person's SOGIE without the expressed
12 approval of the person involved, except in cases where the person involved
13 is a minor and below the age of discernment in which case prior approval of
14 the appropriate Family Court shall be required. In the latter case, the child
15 shall be represented in the proceedings by the Solicitor General or the
16 latter's authorized representative;

17 j. Subject any person, natural or juridical, to profiling, detention, or verbal or
18 physical harassment on the basis of SOGIE. Profiling, detention, or verbal
19 or physical harassment on the basis of SOGIE by members of law
20 enforcement agencies, including the military, police, immigration, is likewise
21 prohibited. Physical or verbal harassment based on SOGIE of persons in
22 custody or detention of the police, including subjecting them to extortion, is
23 also prohibited; and,

24 k. Subject a person to any other analogous acts that shall have the effect or
25 purpose of impairing or nullifying the enjoyment, recognition, and exercise
26 of a person's human rights and fundamental freedoms.

1 SEC. 6. *Administrative Sanctions.* - Willful refusal of a government official
2 whose duty is to investigate, prosecute, or otherwise act on a complaint for a violation
3 of this Act to perform such a duty without a valid ground shall constitute gross
4 negligence on the part of the official and shall be subjected to pertinent administrative
5 sanctions.

6 SEC. 7. *Penalties.* - Any person who commits any discriminatory practice
7 described in Section 5(a), 5(d), 5(e), 5(g), and 5(h), upon conviction, be penalized by
8 a fine of not less than One Hundred Thousand Pesos (P100,000) but not more than
9 Two Hundred Fifty Thousand Pesos (P250,000) or imprisonment of not less than one
10 year but not more than six (6) years, subject to the discretion of the court.

11 Any person who commits any discriminatory practice described in Section 5(b),
12 5(c), 5(f), 5(i), and 5(j) shall, upon conviction, be penalized by a fine of not less than
13 Two Hundred Fifty Thousand Pesos (P250,000) but not more than Five Hundred
14 Thousand Pesos (P500,000) or imprisonment of not less than six (6) years but not
15 more than twelve (12) years, subject to the discretion of the court.

16 Any person who commits any discriminatory practice described in Section 5(k)
17 shall upon conviction be penalized with the same penalty as the prohibited act to which
18 it is analogous.

19 In addition, the court may impose upon a person found to have committed any
20 of the prohibited acts the rendition of community service in terms of attendance in
21 human rights education's familiarization with and exposure to the plight of the victims.
22 Nothing in this Act shall preclude the victim from instituting a separate and
23 independent action for damages and other affirmative reliefs.

24 The penalties provided under this Section shall be without prejudice to the
25 imposition of administrative liability for government officials and employees.

26

1 SEC. 8. *Discriminatory Practices as Qualifying Aggravating Circumstance.* - If
2 any civil, criminal, or administrative offense, not falling under this Act, is committed
3 and proven to be attended by any discriminatory practice prohibited under Section 5
4 of this Act, said offense shall be qualified and the corresponding penalty provided
5 thereto shall be applied in its maximum period.

6 SEC. 9. *Redress Mechanisms for SOGIE-related Cases.*

7 a. *Inclusion of SOGIE Concerns in All Police Stations.* - The Women and
8 Children's Desks now existing in all police stations shall also act on and
9 attend to complaints/cases covered by this Act. In this regard, the police
10 handling said desks shall undergo trainings on human rights and SOGIE,
11 gender sensitivity and awareness, and sensitisation on the issue of violence
12 and abuse on the basis of SOGIE.

13 Complainant-minors can be represented by parents, guardians, social
14 workers, or a non-government organization of good standing and reputation.

15 b. *Role of the Civil Service Commission* — The Civil Service Commission
16 (CSC) shall mandate the establishment of a grievance mechanism to
17 address discriminatory practices committed by officers or employees of
18 government agencies, instrumentalities, and government owned and
19 controlled corporations (GOCCs) and other offices under its jurisdiction.

20 c. *Role of the Department of Labor and Employment* — The Department of
21 Labor and Employment (DOLE) shall mandate the establishment of a
22 grievance mechanism to address discriminatory practices committed in the
23 work place.

24 d. *Role of the Commission on Human Rights.* - The Commission on Human
25 Rights (CHR) shall investigate and recommend the filing of a complaint
26 against any person/s violating this Act. If the Commission has reasonable
27 cause to believe that any person or group of persons is committing acts

1 penalized under Section 5 of this Act, the Commission shall recommend a
2 legal action in the appropriate prosecutor's office or court.

3 The CHR shall also direct the officer concerned to take appropriate
4 action against a public officer or employee at fault or who neglects to
5 perform an act or discharge a duty required under this Act, and recommend
6 the revocation of license, removal from office or employment, suspension,
7 demotion, fine, censure, or prosecution, and ensure compliance therewith.
8 Refusal by any officer without just cause to comply with an order of the
9 Commission to revoke the license, remove, suspend, demote, fine, censure,
10 or prosecute an officer or employee who is at fault, or who neglects to
11 perform an act or discharge a duty required under this Act, shall be a ground
12 for disciplinary action against said officer.

13 The CHR shall also document cases of discrimination on the basis of
14 SOGIE and shall include these documented cases in its annual human
15 rights report. The Commission shall actively provide recommendations to
16 different branches of government on how to address and eliminate
17 discrimination on the basis of SOGIE.

18 SEC. 10. *Programs to Promote Non-Discrimination and Diversity.* – To
19 eliminate all forms of discrimination, the State shall pursue initiatives and programs
20 that seek to enable an environment free of stigma and discrimination. It shall direct the
21 machinery and resources of the State to promote non-discrimination and shall
22 encourage other sectors of the society to engage and participate in these efforts. It
23 shall ensure the implementation of the following programs:

24 a. *Social Protection Programs* - the national government shall ensure that
25 communities vulnerable to stigma and discrimination on the basis of SOGIE
26 are integrated into government-run social protection programs.

1 b. *Diversity Programs and Policies* - All government agencies, government-
2 owned and controlled corporations, private companies, public and private
3 educational institutions, and other entities shall establish diversity programs
4 to ensure human rights violations and violence on the basis of SOGIE are
5 prevented. They shall also create an internal redress mechanism to address
6 cases of discrimination and develop administrative remedies or sanctions for
7 such cases. Public institutions shall incorporate these programs into existing
8 gender and development programs.

9 c. *Information and Education Campaign* — All government agencies and
10 instrumentalities are mandated to develop and implement SOGIE-specific
11 gender sensitivity education and information dissemination. They shall
12 endeavour to produce and publish information and education campaign
13 materials on gender and human rights.

14 SEC. 11. *Congressional Oversight Committee.* – For the effective
15 implementation of this Act, there shall be created a Congressional Oversight
16 Committee, hereinafter referred to as the Anti-Discrimination Oversight Committee
17 (ADOC), within sixty (60) days after the enactment of this Act. The ADOC shall be
18 composed of ten (10) members from the Senate and the House of Representatives,
19 which shall include the following: the Chairperson and two (2) members of the Senate
20 Committee on Women, Children, Family Relations, and Gender Equality; the
21 Chairperson and one (1) member of the Senate Committee on Justice and Human
22 Rights; the Chairperson and two (2) members of the House Committee on Women
23 and Gender Equality; and the Chairperson and one (1) member of the House
24 Committee on Justice. The members of the ADOC shall be appointed by the Senate
25 President and the Speaker of the House, respectively, with at least one (1) member
26 representing the Minority.

1 The ADOC shall be jointly chaired by the Chairpersons of the Senate
2 Committee on Women, Children, Family Relations and Gender Equality and the
3 House Committee on Women and Gender Equality. The Vice-Chair of the ADOC shall
4 be jointly held by the Chairpersons of the Senate Committee on Justice and Human
5 Rights and the House Committee on Justice. The Secretariat shall come from the
6 existing Secretariat personnel of the Senate and the House of Representatives
7 committees concerned.

8 The ADOC shall monitor the compliance of public institutions to the provisions
9 of this Act. Within three years after the enactment of this Act, the ADOC shall conduct
10 an audit of national and local policies that discriminate on the basis of SOGIE, and
11 shall submit a report to Congress, the Office of the President, and the Supreme Court,
12 on this subject.

13 The ADOC shall cease to exist six years after its organization.

14 SEC. 12. *Separability Clause.* - If any provision of this Act is declared
15 unconstitutional or otherwise invalid, the validity of the other provisions shall not be
16 affected thereby.

17 SEC. 13. *Repealing Clause.* - All laws, decrees, orders, rules and regulations
18 or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

19 SEC. 14. *Effectivity.* - This Act shall take effect fifteen (15) days after its
20 publication in the Official Gazette or in a newspaper of general circulation

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22 Approved .