

HOUSE OF REPRESENTATIVES

SEVENTEENTH CONGRESS
Republic of the Philippines
Quezon City, Metro Manila

First Regular Session
3691

HOUSE BILL NO. _____



Introduced by Gabriela Women's Party
Representatives ARLENE BROSAS and EMMI A. DE JESUS,
Bayan Muna Partylist Rep. Carlos Isagani Zarate, Anakpawis Partylist Rep. Ariel Casilao,
ACT Teachers Partylist Reps. Antonio Tinio and France Castro and
Kabataan Partylist Rep. Sarah Jane Elago

EXPLANATORY NOTE

As presently defined under Republic Act No. 7877, the crime of sexual harassment in the work, education or training-related environments can be committed only by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who has authority, influence or moral ascendancy over another. In other words, for a crime of sexual harassment to exist under the present law, the person committing the act or the perpetrator must have authority, influence or moral ascendancy over the victim. Thus, acts of sexual harassment committed by a peer, colleague, classmate, co-worker or by a person of equal or lower rank, status or position or by one without moral authority, influence or moral ascendancy are excluded from the coverage of the law. This is an inadequacy that must be addressed. It is a fact that sexual harassment also occurs among and within this group in the same way that it is a fact that sexual harassment regardless of the status of the perpetrator or of the victim can be just as destructive of the environments that the law aims to protect from sexual harassment. It is also as devastating to the victims of the acts sought to be prevented. Thus, this bill seeks to amend the definition of sexual harassment by including what is called peer sexual harassment.

However, since persons of authority, influence or moral ascendancy in the place of employment, training or education, carry with them greater responsibility in promoting a sexual harassment-free environment and considering that their authority, influence moral ascendancy can be used or exploited to facilitate the commission of the crime, it is proposed that the maximum penalties be imposed on them when they are found guilty of sexual harassment.

The proposed amendments also clarify the following:

- a) That, sexual harassment may be committed in a single or a series of acts;
- b) That, sexual harassment may be physical, verbal or visual;

c) That, sexual harassment may be committed with the use of available technology including information communication technology or with any other means of commission; and

d) That, sexual harassment may be committed within or outside the place of employment when the victim and the perpetrator are connected to or belonging in the same place of employment, training or education.

Moreover, the duty of the employer or head of office to promote a sexual harassment-free environment is further stressed by virtue of the following amendments:

1) The functions of the Committee on Decorum and Investigation (CODI) are expanded and strengthened; and

2) In the section on the Liability of Employer, Head of Office, Education or Training Institution, instances are provided when the employer, head of office, education or training institution is presumed to have knowledge of sexual harassment and in any such case the employer, if unable to overcome the presumption, is held liable for damages on top of what the victim is awarded under labor or other laws.

Lastly, the penalties for the violation of the law are increased.

With these proposed amendments, Gabriela Women's Party hopes that our law against sexual harassment will be more effective in the deterring the commission of that serious crime called sexual harassment.



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Gabriela Women's Party



REP. EMMI A. DE JESUS
Gabriela Women's Party



REP. CARLOS SAGANI ZARATE
Bayan Muna Partylist



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ACT Teachers Partylist



REP. FRANCE CASTRO
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REP. SARAH JANE ELAGO
Kabataan Partylist

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HOUSE BILL NO. 3691

INTRODUCED BY GABRIELA WOMEN'S PARTY
REPRESENTATIVES ARLENE D. BROSAS and EMMI A. DE JESUS

AN ACT
EXPANDING THE DEFINITION OF SEXUAL HARASSMENT AND STRENGTHENING THE
MONITORING MECHANISMS, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING
PENALTIES THEREFOR, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 7877, ALSO
REFERRED TO AS THE "ANTI- SEXUAL HARASSMENT ACT OF 1995"

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

SEC. 1. **Short Title.** – This act shall be known as the "Expanded Anti-Sexual Harassment Act."

SEC. 2. **Declaration of Policy.** – The State shall value the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education. Towards this end, all forms of sexual harassment are hereby declared unlawful.

SEC. 3. **Sexual Harassment Defined.** – Sexual harassment is an act, or a series of acts, which may be committed physically, verbally or visually or with the use of information and communications technology or any other means or technology within or outside of the place of employment, training or education by:

(a) An employer, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person, who having authority, influence or moral ascendancy over another's work, training, education or apprenticeship, commits or makes any unwanted, unwelcome or inappropriate sexual advance, request or demand for sexual favor;

This provision also covers those who have authority or influence with regard to:

1. hiring, approving or granting appointments, re-employment or continued employment, granting favorable compensation, terms and conditions of employment, promotions or privileges, with respect to committing said acts against their employees and applicants for employment or promotion; or

2. admission to an educational or training institution, granting scholarships, payment of stipends, allowances or other benefits, privileges or considerations, with respect to committing said acts against their students and applicants for admission or scholarship.

(b) Any person who commits or engages in any unwanted, unwelcome or inappropriate sexual act, advance or sexually-based behavior against another person where both victim and perpetrator are connected to or belonging in the same place of employment, training or education.

Any person who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another, without which it would not have been committed, shall also be held liable under this Act.

SEC. 4. *Duty of the Employer or Head of Office in a Work-related, Education or Training Environment.* – The employer or head of office in a work-related, education or training environment or institution is hereby mandated to adopt a comprehensive, detailed, written policy on sexual harassment, outlining the detailed procedure for the investigation of sexual harassment cases and the administrative sanctions therefor. It shall be the duty of the employer, or head of the work-related, educational or training environment or institution, to prevent or deter the commission of acts of sexual harassment. Towards this end, the employer or head of office shall:

(a) Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the guidelines or proper decorum within and outside the workplace and educational or training institutions and the procedure for the investigation of sexual harassment cases and the administrative sanctions therefore.

The said rules and regulations issued pursuant to this subsection (a) shall include, among others, guidelines on proper decorum within and outside the workplace and educational or training institutions;

(b) Create a Committee on Decorum and Investigation (CODI) for cases of sexual harassment within one (1) year of the agency's existence/initial operations.

(c) Resolve sexual harassment cases within a period of fifteen (15) days from the submission by the CODI of its report to the disciplining authority.

SEC. 5. *Committee on Decorum and Investigation or CODI.* The CODI shall have the following functions:

(a) Receive complaints of sexual harassment which must be treated with utmost confidentiality to protect all parties involved and maintain harmonious relationship in the work are

(b) a, and act on the same within a period of two (2) working days upon the filing of the complaint;

(c) Investigate sexual harassment complaints in accordance with the prescribed procedure;

(d) Constitute a hearing committee for every sexual harassment case or in case of sexual harassment committed within the premises by a person not connected by reason of employment, training or education, assist the victim in filing the appropriate

charges with the police with the end in view of keeping the environment sexual harassment-free;

(e) Within a non-extendible period of thirty (30) days from the last hearing or filing of the last pleading or paper, submit a report of its findings with a corresponding recommendation to the disciplining authority for decision;

(f) Lead in the conduct of discussions about sexual harassment within the agency or institution to increase understanding and prevention of incidents of sexual harassment;

(g) Undertake information and educational activities in the education and training environment to the end that the school policy, rules, regulations, and procedures on sexual harassment are disseminated to become part of the academic culture in all public and private educational institutions nationwide;

(h) Formulate informal procedures of such nature as to elicit trust and confidence on the part of interested parties in addressing problems arising from cases or incidents of sexual harassment, including counselling and grievance management;

(i) Provide security and support measures to aggrieved parties or victims in sexual harassment cases, especially when there are threats of retaliation; and

(j) Disseminate or post a copy of this act and the rules and regulations mentioned in (a) above for the information of all concerned.

Places of work, training or education that employ or have less than twenty (20) people are exempted from the creation of a CODI, Provided, that a particular employee is designated to perform the above functions of the CODI.

In the case of a work-related environment, the CODI shall be composed of at least one (1) representative each from the management, the union, if any, the employees from the supervisory rank, and from the rank and file employees.

In the case of the educational or training institution, the CODI shall be composed of at least one (1) representative from the administration, the trainors, teachers, instructors, professors or coaches and students or trainees, as the case maybe.

When a member of the CODI is the complainant or the person complained of in a sexual harassment case, said member shall be disqualified from participating as a member of the CODI only with regard to the case he/she is involved in.

SEC. 6. Confidentiality. – The right to privacy of the victim shall be ensured at any stage of the investigation, prosecution and trial of an offense under this Act, unless disclosure is explicitly authorized by the victim. Violation of this provision shall be subject to penalty provided for under Section 9 of this Act.

SEC. 7. Liability of the Employer, Head of Office, Educational or Training Institution. – The employer or head of office, educational or training institution shall be solidarily liable for damages arising from the acts of sexual harassment committed within or outside the employment, education or training environment if the employer or head of office, educational or training institution has knowledge or is presumed to have knowledge of such act or acts constituting sexual harassment and no immediate action is taken thereon.

The employer or head of office is presumed to have knowledge of such act or acts constituting sexual harassment under any of the following instances:

- (a) If the management failed to comply with provisions of Section 4 of this Act;
- (b) If a complaint was made before the CODI or authority designated to receive complaints and investigate cases of sexual harassment as provided in the rules and regulations it is mandated to prescribe; and
- (c) If the harassment is openly practiced or well-known among employees, students or trainees.

In the case of employment-related sexual harassment that results to the constructive dismissal of the employee, the employer who is found liable under the provisions of this Act shall also be liable for damages.

SEC. 8. *Independent Action for Damages.* – Nothing in this Act shall preclude the victim of work, education or training-related sexual harassment from instituting a separate and independent action for damages and other affirmative relief.

Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.

SEC. 9. *Penalties.* – Any person who violates the provisions of this Act shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than Fifty Thousand Pesos (PHP50,000.00) but not more than Two Hundred Thousand Pesos (PHP200,000.00), or both such fine and imprisonment at the discretion of the court. If the perpetrator is the employer, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who has authority, influence or moral ascendancy over another's work, training or education, the maximum penalties shall be imposed.

Violation of Section 6 of this Act shall be punishable with a fine of not less than Twenty Thousand Pesos (Php20,000.00) but not more than Fifty Thousand Pesos (Php50,000.00).

Any action arising from the violation of the provisions of this Act shall prescribe in three (3) years except for administrative cases which shall be imprescriptible.

SEC. 10. *Monitoring Mechanism.* – The Civil Service Commission (CSC), the Department of Labor and Employment (DOLE), the Department of Education (DepEd), the Commission on Higher Education (CHED) and the Technical Education and Skills Development Authority (TESDA) are mandated to monitor public and private offices and educational and training institutions with regard to their compliance to the provisions of this Act. In particular said agencies shall:

- (a) Mobilize their respective regional offices to regularly monitor the implementation of the Act;
- (b) Issue the appropriate memorandum or order to their regional offices, directing them to monitor the compliance of employers, agencies, and educational and

training institutions to the provisions of this Act and where necessary, immediately act on request for assistance or complaints of non-action of employers, agencies and educational and training institutions on harassment complaints; and

(c) Annually provide the Philippine Commission on Women (PCW) a monitoring report on the implementation of this Act.

SEC. 11. *Implementing Rules and Regulations.* - The CSC, in the case of the public sector, and the DOLE, in the case of the private sector, shall formulate the Implementing Rules and Regulations (IRR) of this Act within one hundred and eighty (180) days after its effectivity together with the PCW, the DepEd, the CHED, the TESDA and all concerned government departments and agencies including, as observers, both Houses of Congress through the Committee on Youth, Women and Family Relations (Senate) and the Committee on Women and Gender Equality (House of Representatives) and with the participation of representatives from non government organizations (NGOs) and civil society groups with proven track record of involvement in the promotion of the rights and welfare of Filipino women and girls.

SEC. 12. *Separability Clause.* - If any provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in full force and effect.

SEC. 13. *Repealing Clause.* - Republic Act No. 7877, also referred to as the "*Anti Sexual Harassment Act of 1995*," is hereby repealed. All other laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 12. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the official gazette or in a newspaper of general circulation.

Approved,