

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
First Regular Session

HOUSE BILL NO. **3245**

HOUSE OF REPRESENTATIVES	
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Introduced by Representative Linabelle Ruth R. Villarica

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### EXPLANATORY NOTE

This bill seeks to eliminate discriminatory practices based on sex, sexual orientation or gender identity by proscribing and penalizing several discriminatory practices as assured by the equal protection clause in the Bill of Rights which requires that "laws operate equally on all persons under similar circumstance or that all persons must be treated in the same manner.

The fundamental law also declares that the State values the dignity of every human person and guarantees full respect for human rights (Section 11, Article II, 1987 Constitution). It also imposes on the State the duty to ensure the fundamental equality before the law of women and men.

Likewise, the Philippines is also a signatory to numerous international agreements that seek to ensure respect for human rights of all persons regardless of sex, sexual orientation or any other condition. These international human rights instruments have consistently been interpreted by international institutions, such as the UN Human Rights Committee (UNHRC) and the UN committee on Economic, Social and Cultural Rights to include protection against discrimination on the basis of sexual orientation.

In *Toonen v. Australia*, the UNHRC interpreted Article 26 of the International Covenant on Civil and Political Rights (ICCPR), which obliges States to "guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, to include a protection against discrimination on the basis of sexual orientation. The Committee on Economic, Social and Cultural Rights has also interpreted Article 2 of the ICESCR to include sexual orientation in the Covenant's non-discrimination provision.

Lesbians and gays continue to be oppressed by the iniquitous treatment of society, primarily because of misconception and ignorance and this a reality as they are still considered as second class citizens because of their sexual orientation. Hence there is an urgent need to define and penalize practices that discriminates this sector of society to correct the long-standing discrimination against them.

This bill was filed during the 16<sup>th</sup> Congress. Due to time constraints however, no further action was taken on it.

This bill is filed for the consideration of this 17<sup>th</sup> Congress. Support for the enactment of this measure is earnestly requested.



**LINABELLE RUTH R. VILLARICA**

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HOUSE BILL NO. **3245**

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**AN ACT**  
**PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER**  
**IDENTITY (SOGI) 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 and cited as the "Anti SOGI  
2   Discrimination Act."

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

8       Towards this end, the State shall exert efforts to address all forms of discrimination and  
9   violence on the basis of sexual orientation or gender identity and to promote human dignity as  
10   enshrined in the United Nations Universal Declaration on Human Rights, the Convention on the  
11   Elimination of All Forms of Discrimination Against Women, particularly the General  
12   Recommendation No. 28 on Non-discrimination Based on Sexual Orientation and Gender Identity,  
13   Convention on the Rights of the Child, International Covenant on Civil and Political Rights,

1 International Covenant on Economic, Social and Cultural Rights and all other relevant and universally  
2 accepted human rights instruments and other international conventions to which the Philippines is a  
3 signatory of.

4 SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall be defined  
5 as follows:

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

14 b. *“Gender Identity”* refers to the personal sense of identity as characterized,  
15 among others, by manner of clothing, inclinations, and behavior in relation to  
16 masculine or feminine conventions. A person may have a male or female  
17 identity with the physiological characteristics of the opposite sex.

18 c. *“Sexual Orientation”* refers to the direction of emotional sexual attraction or  
19 conduct. This can be towards people of the same sex (homosexual  
20 orientation) or towards people of both sexes (bisexual orientation) or  
21 towards people of the opposite sex (heterosexual orientation).

22 SEC. 4. *Discriminatory Practices.* - It shall be unlawful for any person, natural  
23 or juridical, to:

1           (a)     include sexual orientation or gender identity, as well as the disclosure of  
2     sexual orientation, in the criteria for hiring, promotion, transfer, designation, work  
3     assignment, re-assignment, dismissal of workers, and other human resource movement  
4     and action, performance review and in the determination of employee compensation,  
5     career development opportunities, training, and other learning and development  
6     interventions, incentives, privileges, benefits or allowances, and other terms and conditions  
7     of employment: *Provided That*, this provision shall apply to employment in both the private  
8     sector and public service, including military, police and other similar services: *Provided*,  
9     *Further That* this prohibition shall likewise apply to the contracting and engaging of the  
10    services of juridical persons;

11           (b)    refuse admission or expel a person from any educational or training institution  
12    on the basis of sexual orientation or gender identity: *Provided, However That* the right of  
13    educational and training institutions to determine the academic qualifications of their  
14    students or trainees shall be duly upheld;

15           (c)    impose disciplinary sanctions, penalties harsher than customary or similar  
16    punishments, requirements, restrictions, or prohibitions that infringe on the rights of the  
17    students on the basis of sexual orientation or gender identity, including discriminating  
18    against a student or trainee due to the sexual orientation or gender identity of the student's  
19    parents or legal guardian;

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

1           (e)     deny a person access to public or private medical and other health services  
2 open to the general public on the basis of such person's sexual orientation or gender  
3 identity;

4           (f)     deny an application for or revoke a professional or other similar kind of  
5 license, clearance certification or any other similar document issued by the government  
6 due to the applicant's sexual orientation or gender identity;

7           (g)     deny a person access to or the use of establishments, facilities, utilities or  
8 services, including housing, open to the general public on the basis of sexual orientation or  
9 gender identity: *Provided, That* the act of giving inferior accommodations or services shall  
10 be considered a denial of access or use of such facility or service: *Provided, That* this  
11 prohibition covers acts of discrimination against juridical persons solely on the basis of the  
12 sexual orientation or gender identity of their members or of their target constituencies;

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

19          (i)     Harassment by members of institutions involved in the enforcement of law  
20 and the protection of rights of any person on the basis of sexual orientation or gender  
21 identity. Among other cases, harassment occurs when a person is arrested or otherwise  
22 placed in the custody and subjected to extortion, physical or verbal abuse, regardless of  
23 whether such arrest has legal or factual basis. Harassment of juridical persons on the basis

1 of the sexual orientation or gender identity of their members, stockholders, benefactors,  
2 clients, or patrons is likewise covered by this provision.

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

7       SEC. 6. *Penalties.* - Any person who commits any discriminatory practice described in  
8 Section 4 shall, upon conviction, be penalized by a fine of not less than One hundred  
9 thousand pesos (P100,000) but not more than Five hundred thousand pesos (P500,000) or  
10 imprisonment of not less than one (1) year but not more than six (6) years, at the discretion  
11 of the court. In addition, the court may impose upon a person found to have committed any  
12 of the prohibited acts the rendition of community service in terms of attendance in human  
13 rights education's familiarization with and exposure to the plight of the victims.

14       If a graver offense motivated by bias, prejudice, or hatred against sexual orientation  
15 or gender identity is committed, such shall be meted the corresponding maximum penalties  
16 depending on the severity of the offenses.

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

19       Nothing in this Act shall preclude the victim from instituting a separate and  
20 independent action for damages and other affirmative reliefs.

21       The penalties provided under this Section shall be without prejudice to  
22 administrative liability for government officials and employees.

1        SEC. 7. *Inclusion of SOGI Concerns in All Police Stations.* - The Women and Children's  
2        Desks now existing in all police stations, shall also act on and attend to complaints/cases  
3        covered by this Act. In this regard, police handling said desks shall undergo appropriate  
4        trainings with human rights-based approach to include among others gender sensitivity and  
5        awareness in proper terminology, dynamics of lesbian, gay, bisexual, and transgender  
6        (LGBT) relationships and hate crime investigations.

7        Complainant-minors can be represented by parents, guardians or a non-government  
8        organization of good standing and reputation.

9        SEC. 8. *Separability Clause.* - If any provision of this Act is declared unconstitutional  
10       or otherwise invalid, the validity of the other provisions shall not be affected thereby.

11       SEC. 9 . *Repealing Clause.* - All laws, decrees, orders, rules and regulations or parts  
12       thereof inconsistent with this Act are hereby repealed or modified accordingly.

13       SEC. 10. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in  
14       the Official Gazette or in a newspaper of general circulation.

15       Approved,

LINABELLE RUTH R. VILLARICA