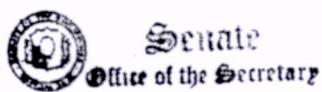


EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

Senate Bill No. 1214



SENATE

'19 DEC -9 A9:11

S. B. NO. 1214

RECEIVED BY: SJ

Introduced by SENATOR JOEL VILLANUEVA

AN ACT
PROHIBITING DISCRIMINATION ON THE BASIS OF AGE, SEX,
CIVIL STATUS, COLOR, ECONOMIC STATUS, ETHNICITY,
MEDICAL CONDITION, PHYSICAL DISABILITY, POLITICAL
OPINION OR AFFILIATION, RACE, OR RELIGIOUS BELIEF,
PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Discrimination against all persons, in any and all of its forms, is abhorrent and must be considered as contrary to the principles and existence of a just and humane society. The Office of the High Commissioner of the United Nations Human Rights has categorically stated that "non-discrimination and equality before the law constitute fundamental principles of international human rights law and are essential elements of human dignity."¹

Thus, it is the duty of the State to institute measures that would protect people against discrimination, and to ensure that all persons have equal protection under the laws.

Cognizant of this, this bill seeks to prohibit discrimination on the basis of age, sex, civil status, color, economic status, ethnicity, medical condition, physical disability, political opinion or affiliation, race or religious belief. Among others, it prohibits any person from promoting and encouraging stigma in the media, in educational textbooks, and other medium, and include any of the grounds referred to

¹ 2017. Office of the High Commissioner of the United Nations Human Rights. Available at <https://www.ohchr.org/EN/AboutUs/Pages/Enhancingequalityandcounteringdiscrimination.aspx> (date last accessed: October 6, 2019).

in the Act, in the criteria for hiring, promotion transfer, designation, work assignment, re-assignment, dismissal of workers, and other human resource movement and action, performance review and in the determination of employee compensation, career development opportunities, training and other learning and skills development interventions, incentives, privileges, benefits or allowances, and other terms and conditions of employment.

However, the bill exempts certain acts from being considered discriminatory, when the act conforms to or promotes the beliefs or doctrines of a person's religion or when the acts or practices are necessary to avoid injury or conflict with the values of religious adherents, and when any of the circumstances enumerated under the Act are bona fide qualifications reasonably necessary to the normal operation of the particular business or reasonable grounds governing management prerogatives, among others.

The bill also clarifies that in all cases, the State shall avoid overriding the right to religious freedom unless strictly necessary, and shall adopt means which are least restrictive to freedom of religion as enshrined under Article III, Section 5 of the Constitution, in the pursuit of the protection against discrimination. The bill further states that in the enforcement of the provisions of the Act, the fundamental right of parents in the upbringing of their children in accordance with their religious convictions shall be given due and utmost respect.

This bill also mandates the provision of social protection, and the establishment of a system of affirmative actions towards protecting the rights of indigenous peoples, other cultural minority and other groups that are most vulnerable to discrimination.

In short, this bill intends to introduce and institutionalize a Comprehensive Anti-Discrimination policy: one that is substantially inclusive and provides comprehensive protection for all Filipinos consistent with the principles enshrined in our Constitution and our values as a Filipino people.

Thus, the passage of this measure is immediately sought.


SENATOR JOEL VILLANUEVA

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PENALTIES THEREFOR AND FOR OTHER PURPOSES

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 as the “Comprehensive Anti-
2 Discrimination Act.”

3
4 **SEC. 2. Declaration of Policy.** – The State recognizes the fundamental right of
5 every person regardless of age, sex, civil status, color, economic status, ethnicity,
6 medical condition, physical disability, political opinion or affiliation, race or religious
7 belief to be free from any form of discrimination. It shall therefore intensify its efforts
8 to fulfill its duties under international and domestic laws to respect, protect and fulfill
9 the rights and dignity of every individual.

10
11 Towards this end, the State shall exert efforts to address all forms of discrimination
12 and promote human dignity as enshrined in the United Nations Universal Declaration
13 on Human Rights, the Convention on the Elimination of All Forms of Discrimination
14 Against Women, Convention on the Rights of the Child, International Covenant on
15 Civil and Political Rights, International Covenant on Economic, Social and Cultural
16 Rights and all other relevant and universally accepted human rights instruments and
17 conventions to which the Philippines is a signatory.

18
19 In all cases, the State shall avoid overriding the right to religious freedom unless
20 strictly necessary, and shall adopt means which are least restrictive to freedom of

1 religion as enshrined under Article III, Section 5 of the Constitution, in the pursuit of
2 the protection against discrimination. Moreover, in the enforcement of this Act, the
3 fundamental right of parents in the upbringing of their children in accordance with
4 their religious convictions shall be given due and utmost respect.

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

- 8
- 9 (a) **Discrimination** refers to any distinction, exclusion, restriction, preference or
10 other preferential treatment based, whether actual or perceived, on age, sex,
11 civil status, color, economic status, ethnicity, medical condition, physical
12 disability, political opinion or affiliation, race or religion, and has the purpose or
13 effect of nullifying or impairing the recognition, access to, enjoyment, or
14 exercise by all persons on equal footing of all rights and freedoms granted by
15 the Constitution and other laws. Discrimination also includes incitement to
16 discriminate and harassment;
- 17
- 18 (b) **Profiling** refers to the act of subjecting a person or group of persons to
19 investigatory activities, which include unnecessary, unjustified, illegal and
20 degrading searches, or other investigatory activities, in determining whether an
21 individual is engaged in an activity presumed to be unlawful, immoral or socially
22 unacceptable;
- 23
- 24 (c) **Religious belief** refers to the profession of a particular belief system based on
25 religious grounds that may publicly or privately be manifested in worship,
26 observance, practice, and teaching;
- 27
- 28 (d) **Sex** refers to the biological, structural, and functional characteristics of an
29 individual; and
- 30
- 31 (e) **Stigma** refers to the dynamic devaluation and dehumanization of an individual
32 in the eyes of others which may be based on attributes that are arbitrarily
33 defined by others as discreditable or unworthy and which result in
34 discrimination, as defined under this Act, when acted upon.

35
36 **SEC. 4. Discriminatory Practices.** – It shall be unlawful for any person, natural or
37 juridical, to:

- 38
- 39 (a) Promote and encourage stigma in the media, in educational textbooks, and
40 other medium;
- 41
- 42 (b) Inciting violence or sexual abuse against any person or group on the basis of
43 the grounds referred to in this Act is likewise prohibited;
- 44
- 45 (c) Include any of the grounds referred to in this Act, in the criteria for hiring,
46 promotion, transfer, designation, work assignment, re-assignment, dismissal of
47 workers, and other human resource movement and action, performance review
48 and in the determination of employee compensation, career development
49 opportunities, training and other learning and skills development interventions,
50 incentives, privileges, benefits or allowances, and other terms and conditions of

employment, and in determining whether or not to contract or engage the services of associations or organizations: *Provided*, that this provision shall apply to employment in both the private sector and public service, including military, police and other similar services; *Provided, finally*, that in all cases, employers may reserve the right to adopt and enforce workplace rules and policies consistent with, among others, their business needs, religious values or expression;

- (d) Refuse admission or expel a person from any educational or training institution on the basis of the grounds referred to in this Act: *Provided, however*, that the right of educational and training institutions to determine the academic and other qualifications of their students or trainees shall be duly upheld; *Provided, further*, That educational and training institutions may reserve the right to refuse admission or expel a person if he/she acts contrary to the religious values of the institution, if any;
- (e) Impose disciplinary sanctions, penalties harsher than customary or similar punishments, requirements, restrictions, or prohibitions that infringe on the rights of students on the basis of the grounds referred to in this Act, including discriminating against a student or trainee due to any of the aforesaid status of the student's parents or legal guardian;
- (f) Refuse or revoke the accreditation, formal recognition, registration or plan to organize of any organization, group, political party, institution or establishment, in educational institutions, workplaces, communities, and other settings, solely on the basis of the grounds referred to in this Act of their members or of their target constituencies, unless the said act is contrary to the values, including religious values, of the educational institution, workplaces, communities, and other settings;
- (g) Deny a person access to public or private medical and other health services open to the general public, as well as access to public and private health insurance, including Health Maintenance Organization (HMO)-provided medical plans, on the basis of the grounds referred to in this Act;
- (h) Deny an application for, or revoke, on the basis of the grounds referred to in this Act, any government license, authority, clearance, permit, certification, or other similar documents necessary to exercise a profession, business, or any other legitimate calling; *Provided*, that in no case shall a marriage license be issued to contracting parties who do not satisfy the essential requisites of marriage, as provided under Chapter 1, Article 2 of the Family Code of the Philippines;
- (i) Deny a person, access to, or the use, of establishments, facilities, utilities or services, including housing, open to the general public on the basis of the grounds referred to in this Act: *Provided*, that the act of giving inferior accommodations or services shall be *prima facie* proof that a discriminatory act as provided under this subsection has been committed; *Provided, further*, that this prohibition covers acts of discrimination against juridical persons solely on the basis of the status or condition of their members or of their target

1 constituencies; *Provided, finally,* That the owners and/or management of the
2 establishment may reserve the right to refuse service any individual if the said
3 act is contrary to his/her values, including religious values;

4 (j) Subject or force any person to undertake any medical or psychological
5 examination to determine or alter any of the circumstances referred to in this
6 Act, without the expressed consent of the person involved, or in case of a
7 minor, his/her parents or judicially-appointed guardians; and

8 (k) Subject any person, natural or juridical, to profiling, detention, or verbal or
9 physical harassment on the basis of the grounds referred to in this Act. For the
10 avoidance of doubt, members of law enforcement agencies, including the
11 military, police and immigration officials, shall be prohibited from profiling,
12 detaining, or verbally or physically harassing any person, including persons in
13 custody or in detention, on the basis of the grounds referred to in this Act.

14 **SEC. 5. Exceptions.** – Notwithstanding Section 4 of this Act, the following acts shall
15 not be deemed unlawful and discriminatory, within the meaning of this Act:

16 (a) When the act conforms to or promotes the beliefs or doctrines of a person's
17 religion or when the acts or practices are necessary to avoid injury or conflict
18 with the values of religious adherents;

19 (b) When any of the circumstances enumerated under this Act are *bona fide*
20 qualifications, occupational or otherwise, reasonably necessary to the normal
21 operation of the particular business or reasonable grounds governing
22 management prerogative;

23 (c) When any of the circumstances with respect to a particular line of work is based
24 on an inherent requirement which is necessary in achieving a legitimate work-
25 related function; or

26 (d) When the act or omission is done in good faith for the purpose of promoting or
27 advancing the interests of a person or group who need or may reasonably be
28 presumed to need assistance or advancement in order to achieve equality with
29 other members of society.

30 **SEC. 6. Administrative Sanctions.** – Any responsible government official, in the
31 exercise of his functions, who willfully refuses, without any valid ground, to
32 investigate, prosecute, or otherwise act on a complaint for a violation of this Act shall
33 be guilty of gross negligence and shall be subjected to appropriate administrative
34 proceedings.

35 **SEC. 7. Penalties.** – Any person who commits any of the discriminatory practices
36 enumerated under this Act shall, upon conviction, be penalized by a fine ranging
37 from Ten Thousand Pesos (Php10,000) to One Hundred Thousand Pesos
38 (Php100,000), or to imprisonment of not more than thirty (30) days, or both, subject
39 to the discretion of the court.

1 In addition, the court may require the offender to render community service, which
2 shall include attending seminars that advocate anti-discrimination agendas on any of
3 the circumstances enumerated under this Act.

4
5 Nothing in Act shall preclude the victim from instituting a separate and independent
6 action for damages and other affirmative reliefs.

7
8 For the avoidance of doubt, the penalties provided under this Section shall be
9 without prejudice to the imposition of administrative liability for government officials
10 and employees.

11
12 **SEC. 8. Redress Mechanisms for Discrimination Cases. –**

13
14 (a) **Inclusion of Discrimination Concerns in All Police Stations.** – The Women
15 and Children's Desks now existing in all police stations shall also act on and
16 attend to complaint s/cases covered by this Act. In this regard, the police
17 officers handling said desks shall undergo trainings on human rights and
18 sensitization on the issue of violence and abuse on the basis of the grounds
19 referred to in this Act.

20
21 Complainant-minors can be represented by parents, guardians, social workers,
22 or a non-government organization of good standing and reputation.

23
24 (b) **Role of the Civil Service Commission.** – The Civil Service Commission
25 (CSC) shall promulgate the appropriate rules and regulations for the
26 establishment of a grievance mechanism to address discriminatory practices
27 committed in, and by officers or employees of, government agencies,
28 instrumentalities, and government owned and controlled corporations (GOCCs)
29 and other offices under its jurisdiction.

30
31 (c) **Role of the Department of Labor and Employment.** – The Department of
32 Labor and Employment (DOLE) shall promulgate the rules and regulations
33 necessary to enhance anti-discrimination protection in work places, including
34 the establishment of a grievance mechanism to address discriminatory
35 practices committed in the work place.

36
37 (d) **Role of the Commission on Human Rights.** – The Commission on Human
38 Rights (CHR) shall investigate and recommend the filing of a complaint against
39 any State actors violating the provisions of this Act.

40
41 The CHR shall also direct the officer concerned to take appropriate action
42 against a public officer or employee at fault or who neglects to perform an act
43 or discharge a duty required under this Act, and recommend the revocation of
44 license, removal from office or employment, suspension, demotion, fine,
45 censure or prosecution, and ensure compliance therewith. Refusal by any
46 officer without just cause to comply with an order of the CHR to revoke the
47 license, remove, suspend, demote, fine, censure, or prosecute an officer or
48 employee who is at fault, or who neglects to perform an act or discharge a duty
49 required under this Act, shall be a ground for disciplinary action against said
50 officer.

1 **SEC. 9. Programs to Promote Non-Discrimination and Diversity.** – To eliminate
2 all forms of discrimination, the State shall pursue initiatives and programs that seek
3 to enable an environment free of stigma and discrimination. It shall direct the
4 machinery and resources of the State to promote non-discrimination and shall
5 encourage other sectors of the society to engage and participate in these efforts, and
6 shall, as far as practicable, ensue the implementation of the following programs:

- 7
- 8 (a) **Social Protection Programs.** – The national government shall ensure that
9 communities vulnerable to stigma and discrimination on the basis of the
10 grounds referred to in this Act are integrated into government-run social
11 protection programs.
- 12
- 13 (b) **Diversity Programs and Policies.** – All government agencies, government-
14 owned and controlled corporations, private companies, public and private
15 educational institutions, and other entities shall establish diversity programs to
16 ensure that all forms of discrimination are prevented. They shall also create an
17 internal redress mechanism to address cases of discrimination and develop
18 administrative remedies or sanctions for such cases. Public institutions shall
19 incorporate these programs into existing gender and development programs.
- 20
- 21 (c) **Information and Education Campaign.** – All government agencies and
22 instrumentalities are mandated to develop and implement information
23 dissemination on any of the prohibited forms of discrimination. They shall
24 endeavor to produce and publish information and education campaign
25 materials on discrimination .
- 26
- 27 (d) **Affirmative Action.** – The State shall develop a system of affirmative actions
28 towards protecting the rights of Indigenous peoples, other cultural minority
29 groups and groups that are most vulnerable to discrimination.
- 30

31 **SEC. 10. Congressional Oversight Committee.** – An Anti-Discrimination
32 Congressional Oversight Committee (ADCOC) is hereby created for the purpose of
33 ensuring the effective implementation of this Act. The ADCOC shall be composed of
34 five members from each of the Houses of Congress, which shall include the
35 Chairperson and two members of the Senate Committee on Women, Children,
36 Family Relations, and Gender Equality; the Chairperson and one member of the
37 Senate Committee on Justice and Human Rights; the Chairperson and two members
38 of the House Committee on Women and Gender Equality; and the Chairperson and
39 one member of the House Committee on Justice. The members of the ADCOC shall
40 be appointed by the Senate President and the Speaker of the House with at least
41 one (1) member from each House representing the Minority.

42

43 The ADCOC shall be jointly chaired by the Chairpersons of the Senate Committee
44 on Women, Children, Family Relations and Gender Equality and the House
45 Committee on Women and Gender Equality. The Vice-Chair of the ADCOC shall be
46 jointly held by the Chairpersons of the Senate Committee on Justice and Human
47 Rights and the House Committee on Justice. The Secretariat shall come from the
48 existing Secretariat personnel of the Senate and the House of Representatives
49 committees concerned.

50

1 The ADCOC shall cease to exist six years after its organization.
2

3 **SEC. 11. Implementing Rules and Regulations.** – Within sixty (60) days from the
4 effectivity of this Act, the Commission on Human Rights, Civil Service Commission,
5 Department of Labor and Employment, Philippine National Police, Department of
6 Interior and Local Government, Department of Education, and other concerned
7 government agencies, shall promulgate the implementing rules and regulations for
8 the effective implementation of this Act.
9

10 **SEC. 12. Separability Clause.** – If any provision of this Act is declared
11 unconstitutional or otherwise invalid, the validity of the other provisions shall not be
12 affected thereby.
13

14 **SEC. 13. Repealing Clause.** – All laws, decrees, orders, rules and regulations or
15 parts thereof inconsistent with this Act are hereby repealed or modified accordingly.
16

17 **SEC. 14. Effectivity.** – This Act shall take effect 15 days after its publication in the
18 Official Gazette or in a newspaper of general circulation.
19

20 **Approved,**