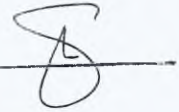


'22 JUL -7 P3:13

SENATE

S.B. No. 139

RECEIVED BY:



INTRODUCED BY SENATOR RISA HONTIVEROS

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

EXPLANATORY NOTE

The State's mandate to protect and accord full respect to the fundamental human rights of every person, regardless of sexual orientation, gender identity or expression, or sex characteristics (SOGIESC) is enshrined in the Constitution and several universally accepted human rights instruments and international covenants. Under our own declaration of state policies, the State values the dignity of every human person and guarantees full respect for human rights.¹ The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.² No less than the Equal Protection Clause³ in the Bill of Rights requires the equal and uniform implementation and application of all laws to all persons similarly situated and under the same circumstances, as well as the equal treatment of all persons before the law.

The Philippines is also a signatory to several international human rights instruments which recognize the inherent dignity and inalienable human rights of all persons, without any distinction of any kind, some of which include the United Nations Universal Declaration on Human Rights (UN UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), particularly the General Recommendation No. 28 on Non-discrimination Based on Sexual Orientation and Gender Identity, Convention on the Rights of the Child (CRC), International Covenant on Civil and

¹ CONST., art. 2, §11.

² CONST., art. 2, § 14.

³ CONST., art. 3, § 1.

Political Rights (ICCPR), and International Covenant on Economic, Social, and Cultural Rights (ICESCR).

In 2019, the Office of the High Commissioner for Human Rights (OHCHR) of the United Nations reaffirmed that these instruments have been interpreted as including discrimination on the basis of sexual orientation, gender identity, and sex characteristics.⁴ The OHCHR reiterated that “human rights are for everyone, without exception: lesbian, gay, bisexual, trans and intersex (LGBTI) people are just as entitled to protection, respect and fulfilment of their human rights as everyone else, including protection from discrimination, violence and torture.”⁵

The most recent report made by the OHCHR to the UN Human Rights Council (UNHRC) concerning discrimination and violence against individuals based on their sexual orientation and gender identity stated that the well-established obligations of States under international human rights law extended to LGBT and intersex persons. According to the report, “these obligations extend to refraining from interference in the enjoyment of rights, preventing abuses by third parties and proactively tackling barriers to the enjoyment of human rights, including, in the present context, discriminatory attitudes and practices.”⁶

However, despite the unequivocal recognition and protection of the fundamental human rights of all persons of diverse SOGIESC in both domestic and international law, numerous cases of discrimination and notorious hate crimes are still perpetuated against members of the community in the Philippines. They continue to be victims of unequal treatment and prejudice in various areas of everyday life, such as education, employment, health, family affairs, media, and public participation, among others. Some cases which received national attention were the murder of Jennifer Laude, a transgender woman, in 2014, and the detainment of Gretchen Diez, also a transgender woman, for entering and using a women’s restroom in 2019. As recently as February 2020, transgender profiling allegedly occurred in Makati City where transgender women were invited to the police

⁴ Office of the High Commissioner for Human Rights, *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law* § 9. (2nd ed. 2019). See, for example, Committee on Economic, Social and Cultural Rights, General Comments No. 20 (E/C.12/GC/20), 2009, para. 27, and No. 22 (E/C.12/GC/22), 2016, at paras. 9, 23; Toonen v. Australia, Human Rights Committee, Communication No. 499/1992 (CCPR/C/50/D/499/1992), para. 8.7; Committee on the Rights of the Child, General Comments No. 4 (CRC/GC/2003/4), 2003, para. 6, and No. 9 (CRC/C/GC/9), 2007, para. 8; Committee against Torture, General Comments No. 2 (CAT/C/GC/2), 2008, para. 21, and No. 3 (CAT/C/GC/3), 2012, paras. 32, 39.

⁵ UNDP & USAID, *Being LGBT in Asia: The Philippines Country Report* § 9 (2014).

⁶ Office of the High Commissioner for Human Rights, *Discrimination and violence against individuals based on their sexual orientation and gender identity (A/HRC/29/23)*, 2015, para. 10.

station under a blanket instruction to “profile” all transgender women without providing any sufficient reason for such invitation. Many more of these cases go unreported and do not receive appropriate action, reflecting a systematic marginalization of the community.

In 2014, the UN Development Programme (UNDP) and USAID published a report outlining the legal and social environment experienced by persons of diverse SOGIESC in the Philippines.⁷ The report noted that in educational institutions, cases of discrimination, bullying and abuse were perpetuated under the guise of ‘academic freedom’ which allows educational institutions to create their own policies. In employment, discrimination and abuse were found to be experienced both in recruitment and regular employment. There are also cases of discrimination in the workplace in terms of HIV status and sexual harassment of LGBT employees. In family affairs, LGBT youths were found to be particularly vulnerable to discrimination and abuse. The Human Rights Committee of the ICCPR also expressed concerns that LGBT persons are still subjected to arrest and prosecution on the basis of sexual orientation or gender identity by means of the “grave scandal” provision in Article 200 of the Revised Penal Code.⁸

Recent developments in local legislation and administrative policy have nevertheless enacted welcome changes against discrimination on the basis of SOGIESC. In 2014, the Quezon City Council enacted a gender-fair ordinance⁹, and since then other local government units have also followed suit.¹⁰ However, it was noted by the UNDP and the Commission on Human Rights (CHR) that as of 2018, only Quezon City had passed its implementing rules and regulations (IRR) for its Gender-Fair Ordinance, the effect being that any violation of the provisions of the ordinances in the areas where IRRs have yet to be made will not amount to a case that can be filed and heard.¹¹ The Department of Education has also issued in 2013 the IRR of the Anti-Bullying Act of 2013 and included “gender-based bullying” as a prohibited act which requires all schools’ active prevention and intervention.¹² In line with this, the UNDP and CHR recommend the uniform application of changes in policy, such as the mainstreaming of gender-neutral policies in

⁷ *Supra* at note 5.

⁸ Human Rights Committee, Concluding observations on the fourth periodic report of the Philippines, adopted by the Committee at its 106th session (15 October - 2 November 2012) (CCPR/C/PHL/CO/4), 2012, para. 10.

⁹ Ordinance No. SP-2357, S-2014. *An Ordinance Providing for a Comprehensive Anti-Discrimination Policy on the Basis of Sexual Orientation, Gender Identity and Expression (SOGIE)*. September 29, 2014.

¹⁰ Eric Julian Manalastas, *Anti-Discrimination Ordinances*, Department of Psychology, University of the Philippines Diliman, <https://pages.upd.edu.ph/ejmanalastas/policies-ordinances>.

¹¹ UNDP, Commission on Human Rights of the Philippines. *Legal Gender Recognition in the Philippines: A Legal and Policy Review* § 35 (2018).

¹² Department of Education, Implementing rules and regulations of Republic Act No. 10627, otherwise known as the Anti-Bullying Act of 2013 § 3.b.1.2 (2013).

government agencies and offices, as well as the passage of circulars and Department Orders that will prohibit gender markers as basis for denial of services or rationale to demand for additional requirements.¹³

For a long time, exclusion and discrimination has been the reality of persons of diverse SOGIESC. The prejudice they experience have far-reaching effects, resulting in the deprivation of their full enjoyment of fundamental human rights. Addressing the human rights gap must not stop at the local and administrative level. The national government must also work to address the lack of protective legislation and supportive policies to safeguard the right of all persons against discrimination on the basis of their SOGIESC. One of the urgent concerns noted by the Human Rights Committee of the ICCPR on the Philippines' compliance with its international obligations on human rights was that a comprehensive anti-discrimination bill that prohibits discrimination on grounds of SOGIESC has not been passed into law.¹⁴

This bill seeks to address the human rights gap by defining every person's fundamental right against discrimination on the basis of SOGIESC, imposing criminal and civil liabilities for discriminatory acts, and incentivizing the promotion of non-discrimination in the private sector. It shall also serve as the Philippines' compliance with several international human rights instruments. It shall endeavor inclusiveness and equality so that persons of diverse SOGIESC may fully participate in everyday life without any fear of abuse, discrimination, and reprisal. It shall ensure that all persons, regardless of their SOGIESC, are able to fully enjoy the right to life, liberty, and property as well as the equal protection of the laws.

The immediate passage of this bill is earnestly sought.


RISA HONTIVEROS
Senator

¹³ *Supra* at note 11 § 46.

¹⁴ *Supra* at note 8.



'22 JUL -7 P3:13

SENATE

S.B. No. 139

RECEIVED BY:

INTRODUCED BY SENATOR RISA HONTIVEROS

**AN ACT
PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION,
GENDER IDENTITY OR EXPRESSION, OR SEX CHARACTERISTICS (SOGIESC)
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 as the "SOGIESC Equality Act".

2 Sec. 2. *Declaration of Policy.* - The State recognizes the fundamental right of every
3 person, regardless of sex, age, class, status, ethnicity, color, disability, religious and
4 political beliefs, sexual orientation, gender identity or expression, or sex characteristics
5 (hereinafter referred as "SOGIESC"), to be free from any form of discrimination. It shall
6 therefore intensify its efforts to fulfill its duties under the Equal Protection Clause and the
7 Bill of Rights provisions of the Philippine Constitution, and international and domestic laws
8 to respect, protect, and fulfill the rights and dignity of every individual.

9 Towards this end, the State shall exert efforts to address all forms of
10 discrimination, marginalization and violence on the basis of SOGIESC, and to promote
11 human dignity as enshrined in the United Nations Universal Declaration on Human Rights,
12 the Convention on the Elimination of All Forms of Discrimination Against Women,
13 particularly the General Recommendation No. 28 on Non-discrimination Based on Sexual
14 Orientation and Gender Identity, Convention on the Rights of the Child, International
15 Covenant on Civil and Political Rights, International Covenant on Economic, Social, and
16 Cultural Rights and all other relevant and universally accepted human rights instruments
17 and other international conventions to which the Philippines is a signatory.

18 Sec. 3. *Definition of Terms.* - As used in this Act, the following terms shall be
19 defined as follows:

20 A. *Bisexual* refers to a person who has the capacity to form enduring physical,
21 romantic, and/or emotional attractions to those of the same gender or to
22 those of another gender;

- 1 B. *Child* refers to a person below eighteen (18) years of age or older but who
2 is incapable of taking care of oneself as defined under Republic Act No.
3 7610, as amended;
- 4 C. *Discrimination* refers to any distinction, exclusion, restriction, or preference
5 which is based on any ground such as sex or SOGIESC, and which has the
6 purpose or effect, whether direct or indirect, of nullifying or impairing the
7 recognition, access to, enjoyment, or exercise by all persons on an equal
8 footing of all rights and freedoms. The actual sex or SOGIESC of the person
9 subjected to discrimination shall not be relevant for the purpose of
10 determining whether an act of discrimination has been committed;
- 11 *Direct Discrimination* occurs where a person is treated less favorably than
12 another person in the same or comparable circumstances on the ground of
13 their SOGIESC.
- 14 *Indirect Discrimination* occurs where an apparently neutral condition or
15 requirement is imposed which has the effect of disadvantaging a person of
16 diverse SOGIESC and which is not reasonable in the circumstances.
- 17 D. *Gay* refers to a person who identifies himself as a man and whose enduring
18 physical, romantic, and/or emotional attractions are to people who also
19 indentifies themselves as men;
- 20 E. *Gender* refers to a social construct used to categorize a person as man,
21 woman, or other identity, which is usually based on one's sex assigned at
22 birth;
- 23 F. *Gender Expression* refers to the way a person communicates gender
24 identity to others through behavior, clothing, hairstyles, communication or
25 speech pattern, or body characteristics;
- 26 G. *Gender Identity* refers to a person's innermost concept of self as man,
27 woman, or another non-binary identity which may or may not correspond
28 with their sex or gender assigned at birth;
- 29 H. *Harassment* refers to such unwanted conduct, pattern of conduct, act, or
30 series of acts which tend to annoy, insult, bully, demean, offend, threaten,
31 intimidate, alarm, or create a hostile or emotionally distressing
32 environment, or put a person or group of persons in fear of their safety;
- 33 I. *Hate Crimes* refer to criminal offenses committed against a person or a
34 group of persons, or against such targeted person's or group's honor or
35 property, motivated in whole or in part by the offender's bias against
36 SOGIESC;

- 1 J. *Intersex* refers to people born with the sex characteristics (including
2 genitals, gonads and chromosome patterns) that do not fit typical binary
3 notions of male or female bodies, all of which are natural bodily variations
4 along a spectrum;
- 5 K. *Lesbian* refers to a person who identifies herself as a woman and whose
6 enduring physical, romantic, and/or emotional attractions are to people who
7 also identify themselves as women;
- 8 L. *Marginalization* refers to a condition where a whole category of people is
9 excluded from useful and meaningful participation in political, economic,
10 social, and cultural life;
- 11 M. *Persons of Diverse SOGIESC* refer to the collective of persons who are man
12 and woman homosexuals (gays and lesbians, respectively), bisexual,
13 transgender, and intersex, among others;
- 14 N. *Reasonable Accommodation* means necessary and appropriate modification
15 and adjustments not imposing a disproportionate or undue burden, where
16 needed in a particular case, to ensure to persons of diverse SOGIESC the
17 enjoyment or exercise on an equal basis with others of all human rights and
18 fundamental freedoms;
- 19 O. *Sex* refers to the civil status of a person acquired by birth having a system
20 of reproduction corresponding to that belonging to either male, female or
21 intersex;
- 22 P. *Sex Characteristics* refers to a person's physical traits that indicate their
23 biological sex, such as chromosomes, external genitalia, gonads, hormones,
24 and internal reproductive organs. traits present at birth are called primary
25 sex characteristics, whereas those that develop during puberty are called
26 secondary sex characteristics;
- 27 Q. *Sexual Orientation* refers to the direction of emotional, sexual attraction, or
28 conduct towards people of the same gender (homosexual orientation) or
29 towards people of more than one gender (bisexual orientation), or towards
30 people of different gender (heterosexual orientation) or to the absence of
31 sexual orientation (asexual attraction);
- 32 R. *Stigma* refers to the dynamic devaluation and dehumanization of an
33 individual in the eyes of others which may be based on attributes that are
34 arbitrarily defined by others as discreditable or unworthy, and which result
35 in discrimination when acted upon; and
- 36 S. *Transgender* refers to a person whose gender identity does not align with

1 the sex or gender assigned at birth, frequently abbreviated to "Trans".

2 *Sec. 4. Communities Vulnerable to Discrimination and Abuse on the Basis of*
3 *SOGIESC.* - This Act seeks to protect individuals and communities that are at a greater
4 risk of experiencing human rights violations on the basis of SOGIESC, including individuals
5 and communities of diverse SOGIESC who are children, young, poor, differently abled, of
6 different ethnic background, or cultural background, and of various religious belief.

7 For this purpose, discrimination on the grounds of a person's SOGIESC intersecting
8 or compounded by other grounds and factors such as age, racial or ethnic origin, religious
9 belief or activity, political inclination or conviction, social class, economic status, marital
10 or relationship status, disability, HIV status, health status or medical history, language,
11 physical features, or other status shall be considered a discriminatory practice.

12 *Sec. 5. Discriminatory Practices.* - It shall be unlawful for any person, natural or
13 juridical, to engage in discrimination as defined in this Act, which shall include:

14 A. Advertising, producing, and publishing in the media, in educational
15 textbooks, and other medium that has the effect of promoting, encouraging
16 and perpetuating stigma or inciting violence and sexual abuse against any
17 person or group on the basis of SOGIESC;

18 B. Denying access to public services to any person on the basis of SOGIESC;

19 C. Including SOGIESC, as well as the disclosure of one's SOGIESC, in the
20 criteria for hiring, promotion, transfer, designation, work assignment,
21 reassignment, dismissal of workers, and other human resource movement
22 and action, performance review, and in the determination of employee
23 compensation, access to career development opportunities, training, and
24 other learning and development interventions, incentives, privileges,
25 benefits or allowances, and other terms and conditions of employment:
26 Provided, that this provision shall apply to employment and skills training in
27 both the private and public sectors, including military, police, and other
28 similar services: Provided further, that this prohibition shall likewise apply
29 to the contracting and engaging of the services of juridical persons;

30 D. Refusing admission or expelling a person from any educational or training
31 institution, including police and military academies or training institutions,
32 on the basis of SOGIESC, including discriminating against a student or
33 trainee due to the SOGIESC of the student's parents or guardian, court-
34 appointed or otherwise;

35 E. Imposing disciplinary sanctions, penalties harsher than customary or similar
36 punishments, requirements, restrictions or prohibitions that infringe on the

1 rights of the students on the basis of SOGIESC, including discriminating
2 against a student or trainee due to the SOGIESC of the student's parents
3 or guardian, court-appointed or otherwise;

4 F. Refusing or revoking the accreditation, formal recognition, registration or
5 plan to organize of any organization, group, political party, institution, or
6 establishment in educational institutions, workplaces, communities, and
7 other settings, solely on the basis of the SOGIESC of their members or of
8 their target constituencies;

9 G. Denying a person access to public or private medical and other health
10 services open to the general public on the basis of such person's SOGIESC;

11 H. Denying an application for or revoking a professional or other similar kind
12 of license, clearance, certification, or any other similar document, issued by
13 the government due to the applicant's SOGIESC;

14 I. Denying a person access to or the use of establishments, facilities, utilities,
15 or services, including housing, open to the general public on the basis of
16 SOGIESC: Provided, that the act of giving inferior accommodations or
17 services shall be considered a denial of access or use of such facility or
18 service; Provided, further, that this prohibition covers acts of discrimination
19 against juridical persons solely on the basis of the SOGIESC of their
20 members or of their target constituencies;

21 J. Subjecting or forcing any person to undertake any medical or psychological
22 examination to determine or alter, or both, the person's SOGIESC without
23 the express approval of the person involved, except in cases where the
24 person involved is a minor and below the age of discernment in which case
25 prior approval of the appropriate Family Court shall be required. In the latter
26 case, the child shall be represented in the proceedings by the Solicitor
27 General or the latter's authorized representative;

28 K. Harassment, coercion, or threats committed on the basis of one's SOGIESC
29 by those involved in the enforcement of law, regulations or directives, and
30 the protection of rights of any person, whether they belong to the public or
31 private sector. Among other cases, prohibited acts under this section
32 include arresting or placing under custody, and subjecting a person to
33 extortion, physical, verbal abuse, or sexual abuse, regardless of whether
34 such arrest has legal or factual basis. Harassment, coercion, or threat of
35 juridical persons on the basis of the SOGIESC of their members,
36 stockholders, benefactors, clients, or patrons is likewise covered by this

- 1 provision;
- 2 L. Publishing information intended to “out” or reveal the sex or SOGIESC of
3 persons without their consent, whether or not done in good faith, when
4 such has not been made known by the person/s concerned;
- 5 M. Engaging in public speech meant to shame, insult, vilify, or which tends to
6 incite or normalize the commission of discriminatory practices against
7 persons of diverse SOGIESC, and which acts or practices in turn, intimidate
8 them or result in the loss of their self esteem;
- 9 N. Subjecting persons or groups of persons to harassment which is motivated
10 in whole or in part by the offender’s bias, belief, or perception regarding
11 the offended party’s SOGIESC, regardless of whether the belief or
12 perception is correct. Such prohibited act may include physical assault,
13 stalking, or making derogatory comments, slurs or lewd propositions, and
14 may be conducted through any form of medium, including but not limited
15 to, visual representation, broadcast communication, correspondence or
16 communication through mail or any telecommunication device, or through
17 the internet or cyberspace;
- 18 O. Subjecting any person, natural or juridical, to gender profiling or to any
19 investigatory activities, which includes (1) unnecessary, unjustified, illegal,
20 or degrading searches to determine whether an individual is engaged in an
21 activity presumed to be unlawful, immoral, or socially unacceptable; and
22 (2) recording and analyzing a person’s psychological and behavioral
23 characteristics to make generalizations about a person’s SOGIESC or to
24 assist in identifying a particular subgroup of people’s SOGIESC;
- 25 P. Preventing a child under parental authority, custody, or guardianship,
26 whether court appointment or otherwise, from exhibiting or expressing
27 one’s sexual orientation or gender identity; or manifesting rejection of such
28 child’s SOGIESC by inflicting or threatening to inflict bodily or physical harm
29 against the child or by causing mental or emotional suffering of the child
30 through intimidation, harassment, public ridicule or humiliation, repeated
31 verbal abuse, or other similar means, or in general, commit any act or
32 omission prejudicial to the welfare and interest of the child as a result of
33 the bias against the SOGIESC of the child; and
- 34 Q. Adopting a measure or practice of general or neutral application which fails
35 to provide for mechanisms to offset or address SOGIESC-based
36 disadvantages or limitations as a result of which persons of diverse

1 SOGIESC are denied or restricted in the recognition and protection of their
2 rights and in their access to and enjoyment of opportunities, benefits, or
3 privileges otherwise available to other persons; Provided, that this provision
4 includes denial of reasonable accommodation; provided further that such
5 prohibited act may include, among others, economic assistance programs
6 extended only to families traditionally consisting of heterosexual couples,
7 whether de facto or legally recognized, to the exclusion of those consisting
8 of couples of diverse SOGIESC; and

9 R. Subjecting a person to any other analogous acts that shall have the effect
10 or purpose of impairing or nullifying the enjoyment, recognition, or exercise
11 of a person's rights and freedoms.

12 **Sec. 6. *Privacy Rights.*** - No person shall be burdened, prejudiced, or prosecuted
13 by reason of the exercise of the right to personal privacy, unless it can be shown that
14 there is a compelling reason or interest justifying the infringement of said constitutional
15 right, and there is no other less restrictive means to achieve said reason or interest.

16 **Sec. 7. *Administrative Sanctions.*** - Refusal of a government official or employee or
17 those involved in the enforcement of law whose duty it is to implement any part of this
18 act, investigate, prosecute, comply with the directive of the chr, or otherwise act on a
19 complaint for a violation of this Act or causing unreasonable delay to perform such a duty
20 without a valid ground shall constitute gross negligence on the part of the official who
21 shall suffer the appropriate penalty under civil service laws, rules and regulations.

22 **SEC. 8. *Penalties.*** - A person who commits any discriminatory practice described
23 in Section 5 shall, upon conviction, be penalized by a fine of not less than One hundred
24 thousand pesos (P100,000) but not more than Five hundred thousand pesos (P500,000)
25 or imprisonment of not less than one (1) year but not more than twelve (12) years or
26 both, at the discretion of the court. In addition, the court may impose upon a person
27 found to have committed any of the prohibited acts the rendition of community service
28 in terms of attendance in human rights education, familiarization with, and exposure to
29 the plight of the victims.

30 If the violation or offense is committed on the grounds of a person's SOGIESC
31 intersecting or compounded by other grounds and factors mentioned in Section 4, the
32 penalty shall be imposed in its maximum.

33 If the violation or offense is committed by a corporation, trust, firm, partnership,
34 association or other entities, the penalty shall be imposed upon the guilty officials,
35 officers, or employees without prejudice to the civil liabilities of the entity arising from
36 the criminal offense.

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

3 Nothing in this Act shall preclude the victim from instituting a separate and
4 independent action for damages and other affirmative reliefs or such other cases for
5 violation of other applicable penal laws.

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

8 *Sec. 9. Special Aggravating Circumstance.* - if any civil, criminal, or administrative
9 offense, not falling under this Act, is committed and proven to be motivated by bias,
10 prejudice, or hate based on SOGIESC, said offense shall be aggravated and the
11 corresponding penalty provided thereto shall be imposed in its maximum.

12 *Sec. 10. Redress Mechanisms for SOGIE-related cases.*

13 A. *Inclusion of SOGIE Concerns in All Police Station Activities and Services.* -

14 The Women and Children's Desks now existing in all police stations shall be
15 renamed as Women, Children and Persons of Diverse SOGIESC Protection
16 Desk, which shall also act on and attend to complaints/cases covered by
17 this Act. In this regard, police handling said desks shall undergo appropriate
18 trainings with human rights-based approach to include among others
19 gender sensitivity and awareness in proper terminology and in the dynamics
20 of relationships existing between persons of diverse SOGIESC as applied in
21 hate crime investigations, case handlings, and case documentations.

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

24 B. *Role of the Civil Service Commission* - In appropriate cases, the Civil Service
25 Commission (CSC) shall, by regulation, require government establishments,
26 including government-owned and controlled corporations and financial
27 institutions to establish a grievance mechanism to address discriminatory
28 practices in the workplace and in the provision of services to the public. For
29 this purpose, failure or delay in establishing a grievance mechanism shall
30 be a ground for the imposition of an administrative fine as may be
31 prescribed by the CSC.

32 C. *Role of the Department of Labor and Employment* - In appropriate cases,
33 the Department of Labor and Employment (DOLE) shall, by regulation,
34 require private establishments to establish a grievance mechanism to
35 address discriminatory practices committed in the workplace and in the
36 provision of services to the public. For this purpose, failure or delay in

1 establishing a grievance mechanism shall be a ground for the imposition of
2 an administrative fine as may be prescribed by the DOLE.

3 D. *Role of the Commission on Human Rights (CHR).* - The CHR shall investigate
4 and recommend the filing of a complaint against any person violating this
5 Act. If the CHR has reasonable cause to believe that any person or group
6 of persons is committing acts penalized in Section 5 of this Act, the CHR
7 shall recommend a legal action in the appropriate prosecutor's office or
8 court.

9 The CHR shall also direct the officer concerned to take appropriate action
10 against a public officer or employee at fault or who neglects to perform an
11 act or discharge a duty required under this Act, and recommend the
12 revocation of license, removal from office or employment, suspension,
13 demotion, fine, censure, or prosecution, and ensure compliance therewith.
14 the refusal or delay in the compliance with the directive of the chr, without
15 valid cause, to revoke the license, remove, suspend, demote, fine, censure,
16 or prosecute an officer or employee who is at fault, or who neglects to
17 perform an act or discharge a duty required under this Act, shall be a ground
18 for disciplinary action against said officer.

19 The CHR shall also document cases of discrimination on the basis of
20 SOGIESC and shall include these documented cases in its annual human
21 rights report. The Commission shall actively provide recommendations to
22 different branches of government on how to address and eliminate
23 discrimination on the basis of SOGIESC.

24 Sec. 11. *Government Programs and Policies.* - The State shall pursue initiatives
25 and programs that seek to establish and maintain an environment free of stigma and
26 discrimination. It shall direct the machinery and resources of the State to promote non-
27 discrimination and shall encourage other sectors of the society to engage and participate
28 in these efforts. Towards this end, the Council, shall, by rules and regulations, develop,
29 prescribe and administer incentive and award scheme to encourage public and private
30 establishments to provide programs that defend the human rights of persons of diverse
31 SOGIESC and contribute to their empowerment.

32 The State shall ensure the implementation of the following programs:

33 A. *Social Protection Programs (SPP).* - The national government shall ensure
34 that communities vulnerable to stigma and discrimination on the basis of
35 SOGIESC are integrated into government-run social protection programs.

36 B. *Diversity and Inclusion Programs and Trainings (DIPT).* - All government

1 agencies, including government-owned and controlled corporations, local
2 government units (LGUs), private companies, public and private educational
3 institutions, and other entities, whether public or private, shall establish
4 diversity and inclusion programs and shall endeavor to provide or conduct
5 trainings for their staff, employees, students and trainees, and constituents
6 on human rights, gender sensitivity and awareness, and sensitization on the
7 issue of violence and abuse to ensure that human rights violations and
8 violence on the basis of SOGIESC are prevented. Such institutions may
9 incorporate these activities into existing gender sensitivity and development
10 training programs or school curricula. Finally, the above-listed agencies,
11 companies and institutions shall create an internal redress mechanism to
12 address cases of discrimination and develop administrative remedies or
13 sanctions for such cases.

14 C. *Information and Education Campaign (IEC).* - All government agencies and
15 instrumentalities are mandated to develop and implement SOGIESC-specific
16 gender sensitivity education and information dissemination. They shall
17 endeavor to produce and publish information and education campaign
18 materials on gender and human rights.

19 Sec. 12. *Empowering Portrayal of Persons of Diverse SOGIESC in Media.* - The
20 positive and empowering portrayal of persons of diverse SOGIESC by media shall be
21 encouraged to counter existing stereotypes and misconceptions that often lead to
22 discriminatory practices. Towards this end, incentive and award scheme shall be provided
23 to programs that defend the human rights of persons of diverse SOGIESC and contribute
24 to their empowerment, pursuant to Sec. 11 of this Act.

25 Sec. 13. *SOGIESC Congressional Oversight Committee.* - For the effective
26 implementation of this Act, there shall be created a Congressional Oversight Committee,
27 hereinafter referred to as the SOGIESC Equality Congressional Oversight Committee
28 (SECOC), within sixty (60) days after the enactment of this Act. The SECOC shall be
29 composed of five (5) members each from the Senate and the House of Representatives,
30 which shall include the Chair of the Senate Committees on Women, Children, Family
31 Relations and Gender Equality, and of Justice and Human Rights, and the Chair of the
32 House of Representatives Committees on Women and Gender Equality, and of Human
33 Rights. The members from the Senate and the House of Representatives shall be
34 appointed by the Senate President and the Speaker, respectively, with at least one (1)
35 member representing the minority.

36 The SECOC shall be chaired jointly by the Chair of the Senate Committee on

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

6 The SECOC shall monitor the compliance of public institutions to the provisions of
7 this Act. Within three (3) years after the enactment of this Act, the SECOC shall conduct
8 an audit of national and local policies that discriminate on the basis of SOGIESC, and shall
9 submit a report to Congress, the Office of the President, and the Supreme Court, on this
10 subject.

11 The SECOC shall cease to exist ten years after its organization.

12 *Sec. 14. Inter-Agency Council on SOGIESC Equality.* - In pursuance of the
13 abovementioned government programs and policies, there is hereby established an Inter-
14 agency Council on SOGIESC Equality, hereinafter known as the Council, which shall be
15 composed of the following agencies and organizations:

- 16 A. Commission on Human Rights (CHR);
- 17 B. Department of Justice (DOJ);
- 18 C. Civil Service Commission (CSC);
- 19 D. Philippine National Police (PNP);
- 20 E. Department of Information and Communications Technology (DICT);
- 21 F. National Youth Commission (NYC);
- 22 G. Philippine Commission on Women (PCW);
- 23 H. Commission on Population (POPCOM);
- 24 I. Department of Labor and Employment (DOLE);
- 25 J. Department of Education (DepEd);
- 26 K. Commission on Higher Education (CHED);
- 27 L. Technical Education and Skills Development Authority (TESDA);
- 28 M. Department of Health (DOH);
- 29 N. Department of Social Welfare and Development (DSWD); and
- 30 O. At least three (3) representatives from Civil Society Organizations (CSOs)
31 with proven expertise and track record on SOGIESC concerns.

32 The Chair of the CHR shall be the permanent Chair of the Council, and the
33 Secretary of Justice as its permanent Vice-Chair. The Council members may designate
34 their permanent representative who shall have a rank not lower than an Assistant
35 Secretary or its equivalent, and shall receive emoluments as may be determined by the
36 Council in accordance with existing budget and accounting rules and regulations.

1 The CSOs forming part of the Council shall be identified by the government agency
2 representatives of the Council. The representatives of the CSOs shall serve for a term of
3 three (3) years renewable at the discretion of the Chair upon recommendation of the
4 council for a maximum of two (2) consecutive terms.

5 The Council shall meet at least once every quarter. The presence of the Chair or
6 the Vice-Chair of the Council, and at least ten (10) other representatives of the Council
7 members shall constitute a quorum to do business, and a majority vote of those present
8 shall be sufficient to pass resolutions or render decisions.

9 *Sec. 15. Powers and Functions of the Council.* - The Council shall have the following
10 powers and functions:

- 11 A. Develop DIPTs and IECs for the national government;
- 12 B. Provide overall direction to the DIPTs, and IECs of the national government,
13 and guidance and technical assistance to agencies in the implementation of
14 the DIPTs, IECs, and SPPs in their respective agencies;
- 15 C. Encourage LGUs to issue ordinances promoting DIPTs and IECs within their
16 respective jurisdictions;
- 17 D. Ensure that branches, departments, bureaus, offices, agencies and
18 instrumentalities of the government, including GOCCs, SUCs and LGUs,
19 undertake appropriate measures, subject to existing laws, rules and
20 issuances, relative to the violation of non-discrimination laws or issuances,
21 and/or filing of appropriate action against erring persons;
- 22 E. Establish a system for monitoring the progress of branches, departments,
23 bureaus, offices, agencies and instrumentalities of the government,
24 including GOCCs, SUCs and LGUs, in the implementation of DIPTs, IECs and
25 SSPs;
- 26 F. Enlist the support and assistance of other government agencies and
27 instrumentalities in the attainment of the objectives of Sec. 10 of this Act;
28 and
- 29 G. Submit to the SEOC regular reports on the progress of the implementation
30 of this Act, highlighting the impact thereof on the status and human rights
31 of persons of diverse SOGIESC and recommend possible legislation to
32 address gaps in existing laws.

33 *Sec. 16. Secretariat to the Council.* - The Commission on Human Rights shall
34 establish the necessary Secretariat for the Council consisting of personnel with the
35 necessary technical expertise and capacity that shall be conferred permanent
36 appointments, subject to civil service rules and regulations. The Secretariat shall be

1 headed by an Executive Director who shall be under the direct supervision of the Chair
2 of the Council.

3 The secretariat shall perform the following functions:

- 4 A. Coordinate and manage the day-to-day affairs of the Council;
- 5 B. Assist in the formulation, monitoring, and evaluation of DIPTs, and IECs;
- 6 C. Provide technical assistance, support and advisory services to the Council
7 and its external partners;
- 8 D. Assist the Council in identifying and building internal and external networks
9 and partnerships;
- 10 E. Coordinate and support the efforts of the Council and its members to
11 mobilize resources; and
- 12 F. Provide administrative support to the Council.

13 *Sec. 17. Appropriations.* - Such amounts as may be necessary for the
14 implementation of this Act shall be indicated under the annual General Appropriations Act
15 (GAA). National and local government agencies shall be authorized to utilize their
16 mandatory gender and development (GAD) budget. In addition, LGUs may also use their
17 mandatory twenty percent (20%) allocation of the annual internal revenue allotments for
18 local development projects as provided under SSection 287 of Republic Act No. 7160,
19 otherwise known as the "Local Government Code of 1991".

20 *Sec. 18. Implementing Rules and Regulations.* - Within sixty (60) days from the
21 effectivity of this Act, the Council shall promulgate the necessary rules and regulations
22 for the effective implementation of the provisions of this Act. Thereafter, this act shall be
23 fully implemented with or without the IRR.

24 *Sec. 19. Separability Clause.* - If any provision of this Act is declared
25 unconstitutional or otherwise invalid, the validity of the other provisions shall not be
26 affected thereby.

27 *Sec. 20. Repealing Clause.* - All laws, decrees, orders, rules and regulations or
28 parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

29 *Sec. 21. Effectivity.* - This Act shall take effect fifteen (15) days after its publication
30 in the Official Gazette or in a newspaper of general circulation.

Approved,