

NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session



Senate
Office of the Secretary

'22 JUL 18 P5:28

SENATE

RECEIVED BY: _____

S. B. NO. 747

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.

¹ Office of the High Commissioner of the United Nations Human Rights. Retrieved from: <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/AccessServicesProtectionEconomicSocialCulturalRights.pdf> (date last accessed: July 13, 2022).

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 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.

This bill also clarifies that in all cases, the State shall avoid overriding the right to religious freedom unless there is a compelling state interest, 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*
2 *Anti-Discrimination Act.*”
3

4 **SEC. 2. Declaration of Policy.** – The State recognizes the fundamental right
5 of 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 to
8 fulfill its duties under international and domestic laws to respect, protect and fulfill the
9 rights and dignity of every individual.

10
11 Towards this end, the State shall exert efforts to address all forms of
12 discrimination and promote human dignity as enshrined in the United Nations
13 Universal Declaration on Human Rights, the Convention on the Elimination of All
14 Forms of Discrimination Against Women, Convention on the Rights of the Child,
15 International Covenant on Civil and Political Rights, International Covenant on
16 Economic, Social and Cultural Rights and all other relevant and universally accepted
17 human rights instruments and 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 there is a compelling state interest and shall adopt means which are least restrictive
21 to freedom of religion as enshrined under Article III, Section 5 of the Constitution, in
22 the pursuit of the protection against discrimination. Moreover, in the enforcement of

1 this Act, the fundamental right of parents in the upbringing of their children in
2 accordance with their religious convictions shall be given due and utmost respect.
3

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

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

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

- 37 (a) Promote and encourage stigma on the basis of the grounds referred to in
38 this Act, in the media, in educational textbooks, and other medium;
39
- 40 (b) Incite violence or abuse against any person or group on the basis of the
41 grounds referred to in this Act is likewise prohibited;
42
- 43 (c) Include any of the grounds referred to in this Act, in the criteria for hiring,
44 promotion, transfer, designation, work assignment, re-assignment,
45 dismissal of workers, and other human resource movement and action,
46 performance review and in the determination of employee compensation,
47 career development opportunities, training and other learning and skills
48 development interventions, incentives, privileges, benefits or allowances,
49 and other terms and conditions of employment, and in determining
50 whether or not to contract or engage the services of associations or

1 organizations: *Provided*, that this provision shall apply to employment in
2 both the private sector and public service, including military, police and
3 other similar services; *Provided, further*, that in all cases, employers may
4 reserve the right to adopt and enforce workplace rules and policies
5 consistent with, among others, their business needs, religious values or
6 expression;
7

- 8 (d) Refuse admission or expel a person from any educational or training
9 institution on the basis of the grounds referred to in this Act: *Provided*,
10 *however*, that the right of educational and training institutions to determine
11 the academic and other qualifications of their students or trainees shall be
12 duly upheld; *Provided, further*, That educational and training institutions
13 may reserve the right to refuse admission or expel a person if he/she acts
14 contrary to the religious values of the institution, if any;
15
- 16 (e) Impose disciplinary sanctions, penalties harsher than customary or similar
17 punishments, requirements, restrictions, or prohibitions that infringe on the
18 rights of students on the basis of the grounds referred to in this Act,
19 including discriminating against a student or trainee due to any of the
20 aforesaid status of the student's parents or legal guardian;
21
- 22 (f) Refuse or revoke the accreditation, formal recognition, registration or plan
23 to organize of any organization, group, political party, institution or
24 establishment, in educational institutions, workplaces, communities, and
25 other settings, solely on the basis of the grounds referred to in this Act of
26 their members or of their target constituencies, unless the said act is
27 contrary to the values, including religious values, of the educational
28 institution, workplaces, communities, and other settings;
29
- 30 (g) Deny a person access to public or private medical and other health
31 services open to the general public, as well as access to public and private
32 health insurance including Health Maintenance Organization (HMO)-
33 provided medical plans, on the basis of the grounds referred to in this Act;
34
- 35 (h) Deny an application for, or revoke, on the basis of the grounds referred to
36 in this Act, any government license, authority, clearance, permit,
37 certification, or other similar documents necessary to exercise a
38 profession, business, or any other legitimate calling; *Provided*, that in no
39 case shall a marriage license be issued to contracting parties who do not
40 satisfy the essential requisites of marriage, as provided under Chapter 1,
41 Article 2 of the Family Code of the Philippines;
42
- 43 (i) Deny a person, access to, or the use, of establishments, facilities, utilities
44 or services, including housing, open to the general public on the basis of
45 the grounds referred to in this Act: *Provided*, that this prohibition covers
46 acts of discrimination against juridical persons solely on the basis of the
47 status or condition of their members or of their target constituencies;
48 *Provided, finally*, That the owners and/or management of the
49 establishment may reserve the right to refuse service any individual if the
50 said act is contrary to his/her values, including religious values;

- 1
2 (j) Subject or force any person to undertake any medical or psychological
3 examination to determine or alter any of the circumstances referred to in
4 this Act, without the express consent of the person involved, or in case of
5 a minor, his/her parents or judicially-appointed guardians; and
6
7 (k) Subject any person, natural or juridical, to profiling, detention, or verbal or
8 physical harassment on the basis of the grounds referred to in this Act.
9 For the avoidance of doubt, members of law enforcement agencies,
10 including the military, police and immigration officials, shall be prohibited
11 from profiling, detaining, or verbally or physically harassing any person,
12 including persons in custody or in detention, on the basis of the grounds
13 referred to in this Act.
14

15 **SEC. 5. Exceptions.** – Notwithstanding Section 4 of this Act, the following acts
16 shall not be deemed unlawful and discriminatory, within the meaning of this Act:
17

- 18 (a) When the act conforms to or promotes the beliefs or doctrines of a
19 person's religion or when the acts or practices are necessary to avoid
20 injury or conflict with the values of religious adherents;
21
22 (b) When any of the circumstances enumerated under this Act are *bona fide*
23 qualifications, occupational or otherwise, reasonably necessary to the
24 normal operation of the particular business or reasonable grounds
25 governing management prerogative;
26
27 (c) When any of the circumstances with respect to a particular line of work is
28 based on an inherent requirement which is necessary in achieving a
29 legitimate work-related function; or
30
31 (d) When the act or omission is done in good faith for the purpose of
32 promoting or advancing the interests of a person or group who need or
33 may reasonably be presumed to need assistance or advancement in order
34 to achieve equality with other members of society.
35

36 **SEC. 6. Administrative Sanctions.** – Any responsible government official, in
37 the exercise of his functions, who willfully refuses, without any valid ground, to
38 investigate, prosecute, or otherwise act on a complaint for a violation of this Act shall
39 be guilty of gross negligence and shall be subjected to appropriate administrative
40 proceedings.
41

42 **SEC. 7. Penalties.** – Any person who commits any of the discriminatory
43 practices enumerated under this Act shall, upon conviction, be penalized by a fine
44 ranging from Fifty Thousand Pesos (Php50,000.00) to Five Hundred Thousand Pesos
45 (Php500,000.00), or to imprisonment of not less than three (3) months but not more
46 than two (2) years, or both, subject to the discretion of the court.
47

48 In addition, the court shall require the offender to render community service of
49 twenty (20) hours, inclusive of attendance to seminars that advocate anti-
50 discrimination agendas related to the committed discriminatory act.

1
2 Nothing in Act shall preclude the victim from instituting a separate and
3 independent action for damages and other affirmative reliefs.
4

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

9 **SEC. 8. Redress Mechanisms for Discrimination Cases. –**

10
11 (a) **Inclusion of Discrimination Concerns in All Police Stations. –** The
12 Women and Children’s Desks now existing in all police stations shall also
13 act on and attend to complaints/cases covered by this Act. In this regard,
14 the police officers handling said desks shall undergo trainings on human
15 rights and sensitization on the issue of violence and abuse on the basis of
16 the grounds referred to in this Act.
17

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

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

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

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

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

1 **SEC. 9. *Programs to Promote Non-Discrimination and Diversity.*** – To
2 eliminate all forms of discrimination, the State shall pursue initiatives and programs
3 that seek 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
9 that communities vulnerable to stigma and discrimination on the basis of
10 the grounds referred to in this Act are integrated into government-run
11 social protection programs.
12

13 (b) **Diversity Programs and Policies.** – All government agencies,
14 government-owned and controlled corporations, private companies, public
15 and private educational institutions, and other entities shall establish
16 diversity programs to ensure that all forms of discrimination are prevented.
17 They shall also create an internal redress mechanism to address cases of
18 discrimination and develop administrative remedies or sanctions for such
19 cases. Public institutions shall incorporate these programs into existing
20 gender and development programs.
21

22 (c) **Information and Education Campaign.** – All government agencies and
23 instrumentalities are mandated to develop and implement information
24 dissemination on any of the prohibited forms of discrimination. They shall
25 endeavor to produce and publish information and education campaign
26 materials on discrimination.
27

28 (d) **Affirmative Action.** – The State shall develop a system of affirmative
29 actions towards protecting the rights of Indigenous peoples, other cultural
30 minority groups and groups that are most vulnerable to discrimination.
31

32 **SEC. 10. *Implementing Rules and Regulations.*** – Within sixty (60) days from
33 the effectivity of this Act, the CHR, CSC, DOLE, Philippine National Police,
34 Department of Interior and Local Government, Department of Education, and
35 appropriate government agencies and other stakeholders, shall promulgate the
36 implementing rules and regulations for the effective implementation of this Act.
37

38 **SEC. 11. *Separability Clause.*** – If any provision of this Act is declared
39 unconstitutional or otherwise invalid, the validity of the other provisions shall not be
40 affected thereby.
41

42 **SEC. 12. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations
43 or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.
44

45 **SEC. 13. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after
46 its publication in the Official Gazette or in at least two (2) newspapers of general
47 circulation.
48

49 **Approved,**