

NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Second Regular Session* )



23 AUG -8 A8 :43

**SENATE**  
S.B. No. 2396

RECEIVED BY: 

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Introduced by **SENATOR IMEE R. MARCOS**

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**AN ACT  
PROHIBITING DISCRIMINATION, MARGINALIZATION, AND VIOLENCE  
COMMITTED ON THE BASIS OF SEXUAL ORIENTATION  
OR GENDER IDENTITY OR EXPRESSION (SOGIE) AND PROVIDING  
PENALTIES THEREFOR**

EXPLANATORY NOTE

Currently, there is no law that addresses discrimination against members of the Lesbian, Gay, Bisexual and Transgender (LGBT) community in the Philippines. Equality, enshrined as a core democratic value in the Constitution, is neither guaranteed nor operationalized for the members of the LGBT community in any existing law.

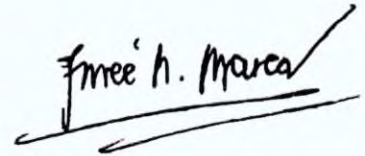
Countries such as Canada, Portugal, and Sweden, among others, have previously enacted their own anti-discrimination laws. In fact, five (5) countries, like Bolivia, Ecuador, Fiji, Malta, and the United Kingdom, have expressly indicated in their respective Constitutions that they shall guarantee and protect their citizens' right to equality based on sexual orientation and gender identity.

Despite the national government's ongoing efforts to promote equality and inclusivity, instances of SOGIE-based harassment still occur in various forms in the country. These include verbal or physical abuse such as derogatory remarks, name-calling, or slurs directed at individuals based on their sexual orientation or gender identity. It may also involve physical assault, threats, or acts of violence motivated by bias against individuals with diverse SOGIE. Further, SOGIE-based harassment can occur in professional settings, leading to discriminatory practices in hiring, promotions, or work assignments. In educational institutions, students with diverse SOGIE can be targets of bullying or harassment which can negatively affect their academic performance and emotional well-being. In extreme cases, SOGIE-based harassment can escalate to hate crimes, such as physical assaults, sexual violence, or even murder, motivated by bias against individuals with diverse SOGIE.

The bill seeks to protect individuals from discrimination based on their SOGIE in various aspects of life, such as employment, education, healthcare, and access to public services. It aims to ensure that all individuals, regardless of their sexual orientation or gender identity, are treated equally and fairly as well as foster a more inclusive society, free from discrimination and prejudice. Also, the bill provides legal protections against discrimination and harassment, promote equal rights and opportunities, and ensure that individuals are not unfairly treated or marginalized based on their SOGIE.

The undersigned also filed this measure in the 18<sup>th</sup> Congress.

Thus, the immediate passage of this bill is earnestly sought.

A handwritten signature in black ink that reads "Imee R. Marcos". The signature is written in a cursive style and is positioned above a horizontal line.

**IMEE R. MARCOS**



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*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 “*SOGIE-based Anti-*  
2 *Discrimination Act*”.

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

10  
11           Towards this end, the State shall address all forms of discrimination,  
12 marginalization and violence on the basis of sexual orientation, or gender identity or  
13 expression, and promote human dignity as enshrined in the 1987 Constitution, the  
14 United Nations Universal Declaration on Human Rights, the Convention on the  
15 Elimination of All Forms of Discrimination Against Women, particularly the General  
16 Recommendation No. 28 on Non-discrimination Based on Sexual Orientation and  
17 Gender Identity, Convention on the Rights of the Child, International Covenant on Civil  
18 and Political Rights, International Covenant on Economic, Social and Cultural Rights,  
19 and all other relevant human rights instruments and international conventions to which  
20 the Philippines is a signatory. In the enforcement of this Act, the fundamental right of  
21 parents in the upbringing of their children in accordance with their religious convictions

1 will be given all due respect. In all matters, the best interest of children shall be  
2 paramount.

3  
4 **SEC. 3. Definition of Terms.** — As used in this Act, the following terms shall refer  
5 to the following:

- 6  
7 a) *Child* refers to a person below eighteen (18) years of age or older but who is  
8 incapable of taking care of one's self, as defined under Republic Act No. 7610,  
9 as amended;
- 10  
11 b) *Discrimination* refers to any distinction, exclusion, restriction, or preference  
12 which is based on any ground such as sex, sexual orientation, gender identity or  
13 expression, among others, and which has the purpose or effect of nullifying or  
14 impairing recognition, access to, enjoyment, or exercise by all persons of all  
15 rights and freedoms. The birth gender, sexual orientation, or gender identity or  
16 expression of the person subjected to discrimination shall not be relevant for the  
17 purpose of determining whether an act of discrimination has been committed;
- 18  
19 c) *Gender Expression* refers to the way a person communicates gender identity  
20 through behavior, clothing, hairstyles, communication or speech pattern, or body  
21 characteristics;
- 22  
23 d) *Gender Identity* refers to the personal sense of identity of an individual as  
24 characterized, among others, by the manner of clothing, inclinations, and  
25 behavior in relation to masculine or feminine conventions. A person may have a  
26 male or female identity with the physiological characteristics of the opposite sex,  
27 in which case this person is considered transgender;
- 28  
29 e) *Hate Crimes* refer to criminal offenses committed against a person or a group of  
30 persons, or against such targeted person's or group's honor or property,  
31 motivated in whole or in part by the offender's biases against gender, sexual  
32 orientation, gender identity or expression;
- 33  
34 f) *Harassment* refers to unwanted act or series of acts which tend to annoy, insult,  
35 bully, demean, offend, threaten, intimidate, alarm, or any other conduct which  
36 creates a hostile or emotionally distressing environment, or put one in fear of  
37 their safety; such act may also include physical assault, stalking, or making  
38 derogatory comments, sexist, homophobic or transphobic slurs or lewd  
39 propositions;
- 40  
41 g) *LGBT Community* refers to the collective of persons who are male and female  
42 homosexuals (gays and lesbians, respectively), bisexual, and transgender;
- 43



- 1 h) *Marginalization* refers to a condition where a whole category of people is  
2 excluded from useful and meaningful participation in political, economic, social,  
3 and cultural life;  
4
- 5 i) *Persons of Diverse Sexual Orientation, Gender Identity, Expression and Sex*  
6 *Characteristics (SOGIESC)* refers to the collective of persons who are male and  
7 female homosexuals or "gays" and "lesbians", respectively; including persons  
8 who are attracted to people of more than one (1) gender or "bisexuals"; persons  
9 whose gender identity do not align with their sex or gender assigned at birth or  
10 "transgender" persons; or persons whose primary and/or secondary sex  
11 characteristics, or their combination of chromosomes, external genitalia, gonads,  
12 hormones, and/or internal reproductive organs, differ from the two (2) expected  
13 patterns of "female" and "male" and cannot be easily categorized as either of  
14 them or "intersex" persons; persons whose sexual orientation, gender identity,  
15 or gender expression does not conform to cisgender-heterosexual norms or  
16 "queer"; persons whose gender do not fall within the gender binary of female  
17 and male or "non-binary"; or persons whose gender expression does not align  
18 with their gender identity or "gender non-conforming" persons, among others;  
19
- 20 j) *Profiling* refers to subjecting a person or group of persons to investigatory  
21 activities, which include unnecessary, unjustified, illegal, and degrading  
22 searches, seizures, detention, questioning, inclusion in a list or other acts  
23 committed for the purpose of determining whether an individual or a group is  
24 engaged in an activity presumed to be unlawful, immoral or socially  
25 unacceptable;  
26
- 27 k) *Sex* refers to male, female, or intersex. Intersex refers to people born with the  
28 sex characteristics (including genitals, gonads and chromosome patterns) that  
29 do not fit typical binary notions of male or female bodies, all of which are natural  
30 bodily variations along a spectrum;  
31
- 32 l) *Sexual Orientation* refers to the direction of emotional, sexual attraction, or  
33 conduct towards people of the same sex (homosexual orientation) or towards  
34 people of both sexes (bisexual orientation), or towards people of the opposite  
35
- 36 m) *Stigma* refers to the devaluation and dehumanization of an individual in the eyes  
37 of others based on attributes that are arbitrarily defined by others as  
38 discreditable or unworthy, and which result in discrimination when acted upon.  
39

40 **SEC. 4. Discriminatory Practices.** – It shall be unlawful for any person, natural  
41 or juridical, to cause discrimination or to discriminate on the basis of sexual orientation  
42 or gender identity or expression as defined in this Act, by:

- 43  
44 a) Denying access to public services, including military service;

- 1 b) Including sexual orientation or gender identity or expression, as well as the  
2 disclosure of sexual orientation, in the criteria for hiring, promotion, transfer,  
3 designation, work assignment, re-assignment, dismissal, and other human  
4 resource movements, performance review, and in the determination of  
5 employee compensation, access to career development opportunities, training,  
6 and other learning and development interventions, incentives, privileges,  
7 benefits or allowances, and other terms and conditions of employment:  
8 Provided, That this provision shall apply to employment and skills training in  
9 both the private sector and public service, including military, police, and other  
10 similar services; and Provided, further, That this prohibition shall likewise apply  
11 to the contracting and engaging of the services of juridical persons;  
12
- 13 c) Refusing admission or expelling a person from any educational or training  
14 institution including discriminating against a student due to the sexual  
15 orientation or gender identity or expression of the student and/or the student's  
16 parents or guardian: Provided, however, That the right of educational and  
17 training institutions to determine the academic qualifications of their students  
18 shall be duly upheld;  
19
- 20 d) Promoting and encouraging stigma on the basis of SOGIESC in the media, in  
21 educational textbooks, and other medium. Inciting violence and sexual abuse  
22 against any person or group on the basis of SOGIESC is likewise prohibited;  
23
- 24 e) Refusing or revoking the accreditation, formal recognition, registration or plan  
25 to organize of any organization, group, political party, institution, or  
26 establishment in educational institutions, workplaces, communities, and other  
27 settings solely on the basis of the sexual orientation or gender identity or  
28 expression of their members or of their target constituencies;  
29
- 30 f) Denying a person access to public or private medical and other health services  
31 open to the general public;  
32
- 33 g) Denying an application for or revoking a professional or other similar kind of  
34 license, clearance, certification on, or any other similar document, except  
35 marriage license, issued by the government;  
36
- 37 h) Denying a person access to or the use of establishments, facilities, utilities, or  
38 services, including housing, open to the general public: Provided, That the act  
39 of giving inferior accommodations or services shall be considered a denial of  
40 access or use of such facility or service: and Provided, finally, That this  
41 prohibition covers acts of discrimination against juridical persons solely on the  
42 basis of the sexual orientation or gender identity or expression of their members  
43 or of their target constituencies;  
44

- 1 i) Subjecting or forcing any person to undertake any medical or psychological  
2 examination to determine or alter, or both, the person's sexual orientation or  
3 gender identity or expression without the express approval of the person  
4 involved, Provided that, in cases where the person involved is a minor and below  
5 the age of discernment, prior approval of the appropriate Family Court shall be  
6 required, and Provided further, that in the latter case, the child shall be  
7 represented in the proceedings by the Solicitor General or the latter's authorized  
8 representative;  
9
- 10 j) Harassment, coercion, or threats committed by members of law enforcement  
11 agencies including discriminatory acts committed during the process of arresting  
12 or placing a person under custody, or while a person is under arrest or in  
13 custody, such as, among others, extortion, and any form of physical, verbal or  
14 sexual abuse, as well as similar actions committed by juridical persons on their  
15 members, stockholders, clients, or patrons;  
16
- 17 k) Engaging in public speech meant to shame, insult, vilify, and incite or normalize  
18 the commission of discriminatory practices against LGBTs;  
19
- 20 l) Subjecting persons or groups to harassment generally defined as such unwanted  
21 conduct, pattern of conduct, act, or series of acts which tend to insult, bully,  
22 demean, threaten, intimidate, or create a hostile environment, or instill fear for  
23 their safety, which include physical assault, stalking, or making derogatory  
24 comments, or lewd propositions, through any form or medium, including but not  
25 limited to, visual representation, broadcast communication, correspondence or  
26 communication or any telecommunication device, or through the internet or  
27 cyberspace;  
28
- 29 m) Subjecting any person or group to gender profiling or to any unlawful  
30 investigatory activities, such as (1) illegal searches to discover any activity that  
31 may be deemed immoral or socially unacceptable; (2) recording and analyzing,  
32 without the consent of the person/s concerned, the psychological and behavioral  
33 characteristics of such person/s to make generalizations about their sexuality or  
34 to assist in identifying their sexual orientation or gender identity; and  
35
- 36 n) Preventing or rejecting children, under parental authority, custody, or  
37 guardianship, their sexual orientation or gender identity or expression by  
38 inflicting or threatening to inflict bodily or physical harm on them, or by causing  
39 them mental or emotional suffering through intimidation, harassment, public  
40 ridicule or humiliation, repeated verbal abuse, or other similar means, or by  
41 committing any act or omission prejudicial to the welfare and interest of the  
42 children due to their sexual orientation or gender identity.  
43



1           **SEC. 5. *Administrative Sanctions.*** – Government officials who fail to investigate,  
2 prosecute, or act on a complaint for any violation of this Act, or who cause unreasonable  
3 delay in the investigation, prosecution or any action on such complaint shall be deemed  
4 to have committed gross negligence and shall be imposed the appropriate  
5 administrative penalties under existing civil service laws, rules and regulations.  
6

7           **SEC. 6. *Penalties.*** – A person who commits any discriminatory practice described  
8 in Section 4 shall, upon conviction, be penalized by a fine of not less than One hundred  
9 thousand pesos (Php100,000.00) but not more than Five hundred thousand pesos  
10 (Php500,000.00) or imprisonment of not less than six (6) months but not more than  
11 six (6) years, or both.  
12

13           If the discriminatory act is committed by a corporation, partnership, association  
14 or other juridical entity, the penalty provided in this section shall be imposed upon the  
15 directors and officers thereof, without prejudice to the civil liabilities arising from the  
16 offense.  
17

18           Any action arising from the violation of the provisions of this Act shall prescribe  
19 in three (3) years.  
20

21           Nothing in this Act shall preclude the victim from instituting a separate and  
22 independent action for damages and other affirmative reliefs or such other cases for  
23 violation of other applicable penal laws. Further, nothing in this Act shall be construed  
24 as giving authority to the State to unduly interfere with the legitimate exercise by the  
25 parents or the guardians of their right to discipline a child under their parental authority,  
26 custody or guardianship.  
27

28           The penalties provided under this Section shall be meted without prejudice to  
29 the imposition of administrative liabilities on erring government officials and employees.  
30

31           **SEC. 7. *Special Aggravating Circumstance.*** – A person who commits any of the  
32 crimes in the Revised Penal Code or any special law and who is proven to have  
33 committed the same motivated by bias, prejudice, or hate based on sex, sexual  
34 orientation, or gender identity or expression, shall suffer the maximum penalty imposed  
35 by the Code or the relevant special law for such crime.  
36

37           **SEC. 8. *Redress Mechanism for SOGIE-Related Offenses.*** – The Women and  
38 Children's Desks now existing in all police stations shall be renamed as Women,  
39 Children and LGBTQ++ Protection Desks, to enable them to also act on and attend to  
40 complaints/cases covered by this Act. In this regard, police officers shall undergo  
41 trainings on human rights and SOGIESC, gender sensitivity and awareness, and the use  
42 of the human rights approach in the handling, investigation, and documentation of  
43 cases filed by persons of diverse SOGIESC.  
44



1 Complainants who are minors shall be represented by parents, guardians, or a  
2 non-government organization of good standing and reputation.  
3

4 **SEC. 9. *Government Programs and Policies.*** – The State shall pursue initiatives  
5 and programs that seek to establish and maintain an environment free of  
6 discrimination. It shall actively promote non-discrimination and shall encourage other  
7 sectors of the society to engage and participate in these efforts. It shall ensure the  
8 implementation of the following programs:  
9

10 a) *Social Protection Programs.* – The national government shall ensure that  
11 communities vulnerable to discrimination on the basis of sexual orientation or  
12 gender identity or expression are integrated into government-run social  
13 protection programs; and

14 b) *Diversity Programs and Trainings* – All government agencies, including  
15 government-owned and controlled corporations, local government units (LGUs),  
16 private companies, public and private education institutions, and other entities  
17 shall establish diversity programs and endeavor to provide trainings for their  
18 employees, students, trainees, and constituents on gender sensitivity and  
19 awareness, and sensitization on the issue of violence and abuse to ensure that  
20 human rights violations and violence on the basis of sexual orientation or gender  
21 identity or expression are prevented; Provided that, such agencies may  
22 incorporate these activities into their existing gender sensitivity and  
23 development training programs, if any, or school curricula; Provided, further  
24 that, the above agencies, companies and institutions shall establish internal  
25 redress mechanisms to address cases of discrimination and implement  
26 administrative remedies or sanction for such cases.  
27

28 **SEC. 10. *Anti-discrimination Congressional Oversight Committee.*** – For the  
29 effective implementation of this Act, there shall be created a Congressional Oversight  
30 Committee, hereinafter referred to as the Anti-Discrimination Oversight Committee,  
31 within sixty (60) days after the effectivity of this Act.  
32

33 The Anti-Discrimination Oversight Committee shall be composed of five (5)  
34 members each from the Senate and the House of Representatives, which shall include  
35 the Chairpersons of the Senate Committees on Women, Children, Family Relations and  
36 Gender Equality, and Justice and Human Rights, and the Chairpersons of the House of  
37 Representatives Committees on Women and Gender Equality, and Human Rights.  
38

39 The members from the Senate and the House of Representatives shall be  
40 appointed by the Senate President and the Speaker, respectively, with at least one (1)  
41 member representing the minority.

42 The Anti-Discrimination Oversight Committee shall be chaired jointly by the  
43 Chairpersons of the Senate Committee on Women, Children, Family Relations and  
44 Gender Equality and the House Committee on Women and Gender Equality. The

1 position of Vice-Chairperson of the Anti-Discrimination Oversight Committee shall be  
2 jointly held by the Chairpersons of the Senate Committee on Justice and Human Rights  
3 and the House Committee on Human Rights. The Secretariat of the Anti-Discrimination  
4 Committee shall come from the Secretariat personnel of the Senate and the House of  
5 Representatives committees concerned.  
6

7 The Anti-Discrimination Oversight Committee shall monitor the compliance of  
8 public institutions to the provisions of this Act. Within three (3) years after the  
9 enactment of this Act, the Anti-Discrimination Oversight Committee shall conduct an  
10 audit of the relevant national and local policies and shall submit a report to Congress,  
11 and the Office of the President, on this matter.  
12

13 **SEC. 11. *Implementing Rules and Regulations.*** – Within sixty (60) days from  
14 the effectivity of this Act, the Civil Service Commission (CSC), Department of Justice  
15 (DOJ), Philippine National Police (PNP), Department of National Defense (DND),  
16 Department of Labor and Employment (DOLE), Department of Education (DepEd),  
17 Commission on Higher Education (CHED), Technical Education and Skills Development  
18 Authority (TESDA), Department of Health (DOH), and at least three (3) civil society  
19 organizations (CSOs) with proven expertise and track record on SOGIE concerns, shall  
20 promulgate the necessary implementing rules and regulations for the effective  
21 implementation of the provisions of this Act.  
22

23 **SEC. 12. *Separability Clause.*** – If any provision of this Act is declared  
24 unconstitutional or otherwise invalid, the validity of the other provisions shall not be  
25 affected thereby.  
26

27 **SEC. 13. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations,  
28 or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.  
29

30 **SEC. 14. *Effectivity.*** – This Act shall take effect fifteen (15) days after its  
31 publication in the Official Gazette or in a newspaper of general circulation.  
32

*Approved,*