

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 813



INTRODUCED BY EMMI A. DE JESUS, LUZVIMINDA C. ILAGAN, FERNANDO
HICAP, CARLOS ZARATE, NERI COLMENARES, JAMES MARK TERRY
RIDON and ANTONIO TINIO

EXPLANATORY NOTE

As presently defined under Republic Act No. 7877, the crime of sexual harassment in the work, education or training-related environments can be committed only by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who has authority, influence or moral ascendancy over another. In other words, for a crime of sexual harassment to exist under the present law, the person committing the act or the perpetrator must have authority, influence or moral ascendancy over the victim. Thus, acts of sexual harassment committed by a peer, colleague, classmate, co-worker or by a person of equal or lower rank, status or position or by one without moral authority, influence or moral ascendancy are excluded from the coverage of the law. This is an inadequacy that must be addressed. It is a fact that sexual harassment also occurs among and within this group in the same way that it is a fact that sexual harassment regardless of the status of the perpetrator or of the victim can be just as destructive of the environments that the law aims to protect from sexual harassment. It is also as devastating to the victims of the acts sought to be prevented. Thus, this bill seeks to amend the definition of sexual harassment by including what is called peer sexual harassment.

However, since persons of authority, influence or moral ascendancy in the place of employment, training or education, carry with them greater responsibility in promoting a sexual harassment-free environment and considering that their authority, influence moral ascendancy can be used or exploited to facilitate the commission of the crime, it is proposed that the maximum penalties be imposed on them when they are found guilty of sexual harassment.

The proposed amendments also clarify the following:

- a) That, sexual harassment may be committed in a single or a series of acts;
- b) That, sexual harassment may be physical, verbal or visual;
- c) That, sexual harassment may be committed with the use of available technology including information communication technology or with any other means of commission; and
- d) That, sexual harassment may be committed within or outside the place of employment when the victim and the perpetrator are connected to or belonging in the same place of employment, training or education.

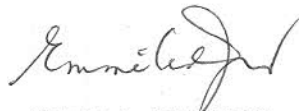
Moreover, the duty of the employer or head of office to promote a sexual harassment-free environment is further stressed by virtue of the following amendments:

- 1) The functions of the Committee on Decorum and Investigation (CODI) are expanded and strengthened; and
- 2) In the section on the Liability of Employer, Head of Office, Education or Training Institution, instances are provided when the employer, head of office, education or training institution is presumed to have knowledge of sexual harassment and in any such case the employer, if unable to overcome the presumption, is held liable for damages on top of what the victim is awarded under labor or other laws.

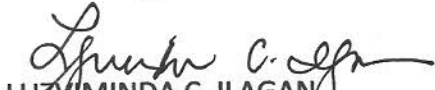
Lastly, the penalties for the violation of the law are increased.

With these proposed amendments, Gabriela Women's Party hopes that our law against sexual harassment will be more effective in the deterring the commission of that serious crime called sexual harassment.

Approval of this bill is earnestly sought.



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AN ACT AMENDING REPUBLIC ACT NO. 7877, OTHERWISE KNOWN AS THE ANTI-SEXUAL HARASSMENT ACT OF 1995

Be it enacted by the Senate and the House of Representatives of the Philippines, in Congress assembled:

SECTION 1. Section 3 of R.A. 7877 is hereby amended to read as follows:

~~{Sec. 3. Work, Education or Training-related Sexual Harassment Defined. — Work, education or training-related sexual harassment is committed by an employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.~~

~~(a) In a work-related or employment environment, sexual harassment is committed when:~~

- ~~1) The sexual favor is made as a condition in the hiring or in the employment, reemployment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in a way would~~

~~discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;~~

~~(2) The above acts would impair the employee's rights or privileges under existing labor laws; or~~

~~(3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.~~

~~(b) In an education or training environment, sexual harassment is committed:~~

~~(1) Against one who is under the care, custody or supervision of the offender;~~

~~(2) Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;~~

~~(3) When the sexual favor is made a condition to the giving of a passing grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or considerations; or~~

~~(4) When the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.~~

~~Any person who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Act.]~~

SECTION 3. SEXUAL HARASSMENT IS AN ACT, OR A SERIES OF ACTS, WHICH MAY BE COMMITTED PHYSICALLY, VERBALLY OR VISUALLY OR WITH THE USE OF INFORMATION COMMUNICATION TECHNOLOGY OR ANY OTHER MEANS OR TECHNOLOGY WITHIN OR OUTSIDE OF THE PLACE OF EMPLOYMENT, TRAINING OR EDUCATION BY:

- 1. AN EMPLOYER, MANAGER, SUPERVISOR, AGENT OF THE EMPLOYER, TEACHER, INSTRUCTOR, PROFESSOR, COACH, TRAINOR, OR ANY OTHER PERSON, WHO HAVING AUTHORITY, INFLUENCE OR MORAL ASCENDANCY OVER ANOTHER'S WORK, TRAINING OR EDUCATION, COMMITS OR MAKES ANY UNWANTED, UNWELCOME OR INAPPROPRIATE SEXUAL ADVANCE, REQUEST OR DEMAND FOR SEXUAL FAVOR;**

THIS PROVISION ALSO COVERS THOSE WHO HAVE AUTHORITY OR INFLUENCE IN APPROVING OR GRANTING APPOINTMENTS, ADMISSION OR SCHOLARSHIP, WITH RESPECT TO COMMITTING SAID ACTS AGAINST THEIR APPLICANTS FOR EMPLOYMENT, PROMOTION, SCHOOL OR TRAINING ADMISSION, AND SCHOLARSHIP;

- 2. ANY PERSON WHO COMMITS OR ENGAGES IN ANY UNWANTED, UNWELCOME OR INAPPROPRIATE SEXUAL ACT, ADVANCE OR SEXUALLY-BASED BEHAVIOR AGAINST ANOTHER PERSON WHERE BOTH VICTIM AND PERPETRATOR ARE CONNECTED TO OR BELONGING IN THE SAME PLACE OF EMPLOYMENT, TRAINING OR EDUCATION.**

SECTION 2. Section 4 is hereby amended to read as follows:

"Sec.4 . Duty of the Employer or Head of Office in a Work-related, Education or Training Environment. - **THE EMPLOYER OR HEAD OF OFFICE IN A WORK-RELATED, EDUCATION OR TRAINING ENVIRONMENT OR INSTITUTION IS HEREBY MANDATED TO ADOPT A COMPREHENSIVE, DETAILED, WRITTEN POLICY ON SEXUAL HARASSMENT.** It shall be the duty of the employer, or head of the work-related, educational or training environment or institution, to prevent or deter the commission of acts of sexual harassment. Towards this end, the employer or head of office shall:

(a) Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the guidelines or proper decorum ~~in~~ **WITHIN AND OUTSIDE** the workplace and educational or training institutions and the procedure for the investigation of sexual harassment cases and the administrative sanctions therefore.

~~Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.~~

The said rules and regulations issued pursuant to this subsection (a) shall include, among others, guidelines on proper decorum ~~in~~ **WITHIN AND OUTSIDE** the workplace and educational or training institutions;

(b) Create a Committee on Decorum and Investigation (CODI) ~~(of)~~ **FOR** cases of sexual harassment **WITHIN ONE (1) YEAR OF THE AGENCY'S EXISTENCE/INITIAL OPERATIONS.** ~~(The Committee shall conduct meetings, as the case may be, with other officers and employees, teachers, instructors, professors, coaches, trainers and students or trainees to increase understanding and prevent incidents of sexual harassment. It shall also conduct the investigation of the alleged cases constituting sexual harassment.)~~

(C) RESOLVE SEXUAL HARASSMENT CASES WITHIN A PERIOD OF FIFTEEN (15) DAYS FROM THE SUBMISSION BY THE CODI OF ITS REPORT TO THE DISCIPLINING AUTHORITY.

THE CODI SHALL HAVE THE FOLLOWING FUNCTIONS: -

1. RECEIVE COMPLAINTS OF SEXUAL HARASSMENT WHICH MUST BE TREATED WITH UTMOST CONFIDENTIALITY TO PROTECT ALL PARTIES INVOLVED AND MAINTAIN HARMONIOUS RELATIONSHIP IN THE WORK AREA, AND ACT ON THE SAME WITHIN A PERIOD OF TWO (2) WORKING DAYS UPON THE FILING OF THE COMPLAINT;
2. INVESTIGATE SEXUAL HARASSMENT COMPLAINTS IN ACCORDANCE WITH THE PRESCRIBED PROCEDURE;
3. CONSTITUTE A HEARING COMMITTEE FOR EVERY SEXUAL HARASSMENT CASE OR IN CASE OF SEXUAL HARASSMENT COMMITTED WITHIN THE PREMISES BY A PERSON NOT CONNECTD BY REASON OF EMPLOYMENT, TRAINING OR EDUCATION, ASSIST THE VICTIM IN FILING THE

APPROPRIATE CHARGES WITH THE POLICE WITH THE END IN VIEW OF KEEPING THE ENVIRONMENT SEXUAL HARASSMENT-FREE;

4. WITHIN A NON-EXTENDIBLE PERIOD OF THIRTY (30) DAYS FROM THE LAST HEARING OR FILING OF THE LAST PLEADING OR PAPER, SUBMIT A REPORT OF ITS FINDINGS WITH A CORRESPONDING RECOMMENDATION TO THE DISCIPLINING AUTHORITY FOR DECISION;
5. LEAD IN THE CONDUCT OF DISCUSSIONS ABOUT SEXUAL HARASSMENT WITHIN THE AGENCY OR INSTITUTION TO INCREASE UNDERSTANDING AND PREVENTION OF INCIDENTS OF SEXUAL HARASSMENT;
6. UNDERTAKE INFORMATION AND EDUCATIONAL ACTIVITIES IN THE EDUCATION AND TRAINING ENVIRONMENT TO THE END THAT THE SCHOOL POLICY, RULES, REGULATIONS, AND PROCEDURES ON SEXUAL HARASSMENT ARE DISSEMINATED TO BECOME PART OF THE ACADEMIC CULTURE IN ALL PUBLIC AND PRIVATE EDUCATIONAL INSTITUTIONS NATIONWIDE;
7. FORMULATE INFORMAL PROCEDURES OF SUCH NATURE AS TO ELICIT TRUST AND CONFIDENCE ON THE PART OF INTERESTED PARTIES IN ADDRESSING PROBLEMS ARISING FROM CASES OR INCIDENTS OF SEXUAL HARASSMENT, INCLUDING COUNSELLING AND GRIEVANCE MANAGEMENT;
8. PROVIDE SECURITY AND SUPPORT MEASURES TO AGGRIEVED PARTIES OR VICTIMS IN SEXUAL HARASSMENT CASES, ESPECIALLY WHEN THERE ARE THREATS OF RETALIATION; AND
9. DISSEMINATE OR POST A COPY OF THIS ACT AND THE RULES AND REGULATIONS MENTIONED IN (A) ABOVE FOR THE INFORMATION OF ALL CONCERNED.

PLACES OF WORK, TRAINING OR EDUCATION THAT EMPLOY OR HAVE LESS THAN TWENTY (20) PEOPLE ARE EXEMPTED FROM THE CREATION OF A CODI, PROVIDED, THAT A PARTICULAR EMPLOYEE IS DESIGNATED TO PERFORM THE ABOVE FUNCTIONS OF THE CODI.

In the case of a work-related environment, the committee shall be composed of at least one (1) representative each from the management, the union, if any, the employees from the supervisory rank, and from the rank and file employees.

In the case of the educational or training institution, the committee shall be composed of at least one (1) representative from the administration, the trainors, teachers, instructors, professors or coaches and students or trainees, as the case maybe.

~~[The employer or head of office, educational training institution shall disseminate or post a copy of this Act for the implementation of all concerned.]~~

WHEN THE MEMBER OF THE CODI IS THE COMPLAINANT OR THE PERSON COMPLAINED OF IN A SEXUAL HARASSMENT CASE, HE/SHE SHALL, FOR HIS/HER CASE ONLY, BE DISQUALIFIED FROM PARTICIPATING AS A MEMBER OF THE CODI."

SECTION 3. Section 5 is hereby amended to read as follows:

"Sec. 5. Liability of the Employer, Head of Office, Educational or Training Institution. – The employer or head of office, educational or training institution shall be solidarily liable for damages arising from the acts of sexual harassment committed ~~[in]~~ **WITHIN OR OUTSIDE** the employment, education or training environment if the employer or head of office, educational or training institution ~~[is informed of such acts by the offended party]~~ **HAS KNOWLEDGE OR IS PRESUMED TO HAVE KNOWLEDGE OF SUCH ACT OR ACTS CONSTITUTING SEXUAL HARASSMENT** and no immediate action is taken thereon.

THE EMPLOYER OR HEAD OF OFFICE IS PRESUMED TO HAVE KNOWLEDGE OF SUCH ACT OR ACTS CONSTITUTING SEXUAL HARASSMENT UNDER ANY OF THE FOLLOWING INSTANCES:

- 1. IF THE MANAGEMENT FAILED TO COMPLY WITH PROVISIONS OF THE PRECEDING SECTION;**
- 2. IF A COMPLAINT WAS MADE BEFORE THE COMMITTEE OR AUTHORITY DESIGNATED TO RECEIVE COMPLAINTS AND INVESTIGATE CASES OF SEXUAL HARASSMENT AS PROVIDED IN THE RULES AND REGULATIONS IT IS MANDATED TO PRESCRIBE; AND**
- 3. IF THE HARASSMENT IS OPENLY PRACTICED OR WELL-KNOWN AMONG EMPLOYEES, STUDENTS OR TRAINEES.**

IN THE CASE OF EMPLOYMENT-RELATED SEXUAL HARASSMENT THAT RESULTS TO THE CONSTRUCTIVE DISMISSAL OF THE EMPLOYEE, THE EMPLOYER WHO IS FOUND LIABLE UNDER THE PROVISIONS OF THIS ACT SHALL ALSO BE LIABLE FOR DAMAGES.

SECTION 4. Section 6 is hereby amended to read as follows:

"Sec. 6. – Independent Action for Damages. – Nothing in this Act shall preclude the victim of work, education or training-related sexual harassment from instituting a separate and independent action for damages and other affirmative relief.

ADMINISTRATIVE SANCTIONS SHALL NOT BE A BAR TO PROSECUTION IN THE PROPER COURTS FOR UNLAWFUL ACTS OF SEXUAL HARASSMENT."

SECTION 5. Section 7 is hereby amended to read as follows:

"Sec. 7. Penalties. – Any person who violates the provisions of this Act shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than ~~[Ten thousand pesos (P10,000)]~~ **FIFTY THOUSAND PESOS (PHP50, 000.00)** not more than ~~[Twenty thousand pesos (P20,000)]~~ **TWO HUNDRED THOUSAND PESOS (PHP200, 000.00)**, or both such fine and imprisonment at the discretion of the court. **IF THE PERPRETRATOR IS THE EMPLOYER, MANAGER, SUPERVISOR, AGENT OF THE EMPLOYER, TEACHER, INSTRUCTOR, PROFESSOR, COACH, TRAINOR, OR ANY OTHER PERSON WHO HAS AUTHORITY,**

INFLUENCE OR MORAL ASCENDANCY OVER ANOTHER'S WORK, TRAINING OR EDUCATION, THE MAXIMUM PENALTIES SHALL BE IMPOSED.

Any action arising from the violation of the provision of this Act shall prescribe in three (3) years **EXCEPT FOR ADMINISTRATIVE CASES.**"

SECTION 6. IMPLEMENTING RULES AND REGULATIONS. –THE CIVIL SERVICE COMMISSION (CSC), IN THE CASE OF THE PUBLIC SECTOR, AND THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE) IN THE CASE OF THE PRIVATE SECTOR, SHALL FORMULATE THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF THIS ACT WITHIN ONE HUNDRED AND EIGHTY (180) DAYS AFTER ITS EFFECTIVITY TOGETHER WITH PHILIPPINE COMMISSION ON WOMEN (PCW), THE DEPARTMENT OF EDUCATION, THE COMMISSION ON HIGHER EDUCATION, THE TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY AND ALL CONCERNED GOVERNMENT DEPARTMENTS AND AGENCIES INCLUDING, AS OBSERVERS, BOTH HOUSES OF CONGRESS THROUGH THE COMMITTEE ON YOUTH, WOMEN AND FAMILY RELATIONS (SENATE) AND THE COMMITTEE ON WOMEN AND GENDER EQUALITY (HOUSE OF REPRESENTATIVES) AND WITH THE PARTICIPATION OF REPRESENTATIVES FROM NON GOVERNMENT ORGANIZATIONS (NGOS) AND CIVIL SOCIETY GROUPS WITH PROVEN TRACK RECORD OF INVOLVEMENT IN THE PROMOTION OF THE RIGHTS AND WELFARE OF FILIPINO WOMEN AND GIRLS."

SECTION 7. *Separability Clause* - If any portion or provision of this Act is declared void and unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

SECTION 8. *Repealing Clause*. – All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 8. *Effectivity Clause*. – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.

Approved,