

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1034

HOUSE OF REPRESENTATIVES	
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Introduced by Rep. Winston "Winnie" Castelo

EXPLANATORY NOTE

The 1987 Constitution upholds the dignity of every human person and guarantees full respect for human rights (Article 2 of Section 11, 1987 Constitution). Furthermore, the equal protection clause in the Bill of Rights provides that all laws are implemented and applied equally and uniformly on all persons under similar circumstances.

The United Nations Human Rights Committee (UNHRC) and the UN Committee on Economic, Social, and Cultural Rights, to which the Philippines is a signatory, forged international agreements on the respect for human rights of all persons regardless of any condition, including sex or sexual orientation. The UNHRC has interpreted Article 26 of the International Covenant on Civil and Political Rights (ICCPR), which obliges States to "guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status," to include a protection against discrimination on the basis of sexual orientation. The Committee on Economic, Social and Cultural Rights has also interpreted Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to include sexual orientation in the Covenant's non-discrimination provisions.

Nevertheless, despite the Philippines' being a State Party to the ICCPR, laws reinforcing equal protection especially of the LGBT community have yet to be adopted.

It is deplorable how, on the basis of their sexual orientation, the LGBT community members are debased and humiliated in public places.

It is high time that the government passed a law proscribing the discrimination against members of the LGBT community.

The immediate passage of this measure is sought for.

WINNIE CASTELO



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AN ACT
PROSCRIBING DISCRIMINATION AGAINST MEMBERS OF THE LGBT COMMUNITY
AND PRESCRIBING PENALTIES THEREFOR

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

SECTION 1. This Act shall be known as the "Anti-LGBT Discrimination Act of 2016."

SEC. 2. It is the policy of the state to work for the elimination of all forms of discrimination that flouts the equal protection clause of the Bill of Rights and the State obligations under human rights instruments acceded to by the Republic of the Philippines, particularly those discriminatory practices based on sex or sexual orientation. Towards this end, discriminatory practices as defined herein shall be proscribed and penalized.

SEC. 3. Discriminatory Practices. It shall be unlawful for any person, natural or juridical, to:

- (a) Deny access to public service, including military service, any person belonging to the LGBT community;
- (b) Include sexual orientation and gender identity, as well as the disclosure of sexual orientation, in the criteria for hiring, promotion and dismissal of workers, and in the determination of employee compensation, training, incentives, privileges, benefits or allowances, and other terms and conditions of employment;
- (c) Deny a person admission to educational institutions solely on the basis of sexual orientation and gender identity;
- (d) Deny a person access to medical and other health services open to the general public on the basis of such person's sexual orientation or gender identity;
- (e) Deny an application for a professional license issued by government due to the applicant's sexual orientation or gender identity;
- (f) Deny a person on the basis of sexual orientation or gender identity access to or the use of establishments, facilities, utilities or services, including housing, that are open to the general public;
- (g) Harassments by members of institutions involved in the enforcement of law and the protection of rights, such as the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP), of any person on the basis of his or her sexual orientation or gender identity. Harassment of juridical persons on the basis of the sexual orientation or gender identity of their members, stockholders, benefactors, clients, or patrons is likewise covered by this provision;
- (h) Perform other analogous acts of discrimination.

SEC. 4. Administrative Sanctions. – Refusal of a government official whose duty it is to investigate, prosecute or otherwise act on a complaint for a violation of this Act to perform such a duty without a valid ground shall constitute gross negligence on the part of such official who shall suffer the appropriate penalty under civil service laws, rules and regulations.

SEC. 5. Penalties. – (a) Persons found guilty of any of the discriminatory practices enumerated in the foregoing section shall be penalized with a fine of not less than Two Hundred Fifty Thousand Pesos (P250,000) but not exceeding Five Hundred Thousand Pesos (P500,000) or imprisonment of not less than one (1) year but not more than six (6) years, or both at the discretion of the court.

(b) The officials directly involved shall be liable for violations committed by corporations, organizations or similar entities.

(c) Community service time in terms of human rights education to the perpetrator and exposure to the plight of the victims shall be additionally imposed at the discretion of the court.

SEC. 7. Separability Clause. – If any part, section or provision of this Act shall be held invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.

SEC. 8. Repealing Clause. – All laws, acts, decrees, executive orders, rules and regulations or other issuances or parts thereof, which are inconsistent with this Act, are hereby modified and repealed.

SEC. 9. Effectivity - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,