

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 95



Introduced by MARIA LOURDES O. ACOSTA-ALBA

EXPLANATORY NOTE

The Philippines 1987 Constitution is rooted on equality – one of the main principles the Filipino people value most. We can see how equality is reflected in Philippines statutes up to the various international treaties the country adheres to. It is evident that equality is a value shared amongst the Filipino people –rare but essential to our way of life.

Despite the importance given to the principle of equality, many Filipinos, especially members of the LGBTQ++ community, still suffer from discrimination be it in school, at the workplace, or even at home where security and being oneself should be a norm, not a privilege. Various studies and reports also show how many Filipinos experience discrimination due to their sexual orientation, gender identity, or expression (SOGIE). This is further supported by reports from UNDP, USAID, and Human Rights Watch which documents how the Philippines has one of the worst records of violence against the LGBTQ++ community.

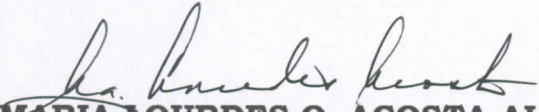
At this day and age where more and more Filipino LGBTQ++ members are finally mustering up the courage to come out in the open with the support of either their families, friends, or even strangers much like them BUT where their safety, security, and inherent right to be free to be whoever they want to be are also at stake - a law that penalizes acts of discrimination, provides a complaint mechanism, orders government to promote equality, and empowers LGBTQ++ in media is one that is direly needed.

Under this bill, to publish "*information intended to 'out' or reveal the sex, sexual orientation, or gender identity of a person without their consent, when such has not been made known by the person concerned, and has been made with malicious intent or is primarily motivated by a desire for commercial profit*" will be made illegal. This is just one of the many stipulations that will be included in the bill.

It is important we are reminded how any form of discrimination in the Philippines did not exist before the coming of our colonizers. It had no place here then, it should definitely have no place in the present, and it is our duty to make sure that it shall have no place in the future.

This proposal passed the House of Representatives on Third Reading in the 17th Congress. Unfortunately, it did not pass in the Senate.

With enough support, this bill will be passed and signed this 18th Congress.



MARIA LOURDES O. ACOSTA-ALBA
First District, Bukidnon

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HOUSE OF REPRESENTATIVES
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EIGHTEENTH CONGRESS
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HOUSE BILL NO. 95

Introduced by Representative Maria Lourdes O. Acosta-Alba

AN ACT
PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL
ORIENTATION OR GENDER IDENTITY OR EXPRESSION (SOGIE) 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 "SOGIE
2 Equality Act".

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

11 Towards this end, the State shall exert efforts to address all forms of
12 discrimination, marginalization and violence on the basis of sexual
13 orientation, or gender identity or expression, and to promote human dignity
14 as enshrined in the United Nations Universal Declaration on Human Rights,
15 the Convention on the Elimination of All Forms of Discrimination Against
16 Women, particularly the General Recommendation No. 28 on Non-
17 discrimination Based on Sexual Orientation and Gender Identity,

1 Convention on the Rights of the Child, International Covenant on Civil and
2 Political Rights, International Covenant on Economic, Social and Cultural
3 Rights, and all other relevant and universally-accepted human rights
4 instruments and other international conventions to which the Philippines is
5 a signatory. In the enforcement of this Act, all due respect shall be accorded
6 to the fundamental right of parents in the upbringing of their children in
7 accordance with their religious convictions. In all matters, the best interest
8 of children shall be paramount.

9 SEC. 3. *Definition of Terms.* – As used in this Act:

10 a. *Child* refers to a person below eighteen (18) years of age or older
11 but who is incapable of taking care of oneself as defined under Republic Act
12 No. 7610, as amended;

13 b. *Discrimination* refers to any distinction, exclusion, restriction, or
14 preference which is based on any ground such as sex, sexual orientation,
15 gender identity or expression, and which has the purpose or effect of
16 nullifying or impairing the recognition, access to, enjoyment, or exercise by
17 all persons on an equal footing of all rights and freedoms. The actual sex,
18 sexual orientation, or gender identity or expression of the person subjected
19 to discrimination shall not be relevant for the purpose of determining
20 whether an act of discrimination has been committed;

21 c. *Gender Expression* refers to the way a person communicates
22 gender identity to others through behavior, clothing, hairstyles,
23 communication or speech pattern, or body characteristics;

24 d. *Gender Identity* refers to the personal sense of identity as
25 characterized, among others, by manner of clothing, inclinations, and
26 behavior in relation to masculine or feminine conventions. A person may
27 have a male or female identity with the physiological characteristics of the
28 opposite sex, in which case this person is considered transgender;

29 e. *Hate Crimes* refer to criminal offenses committed against a
30 person or a group of persons, or against such targeted person's or group's
31 honor or property, motivated in whole or in part by the offender's bias
32 against gender, sexual orientation, gender identity or expression;

1 f. *LGBT Community* refers to the collective of persons who are
2 male and female homosexuals (gays and lesbians, respectively), bisexual,
3 and transgender;

4 g. *Marginalization* refers to a condition where a whole category of
5 people is excluded from useful and meaningful participation in political,
6 economic, social, and cultural life;

7 h. *Sex* refers to male, female, or intersex. Intersex refers to people
8 born with the sex characteristics (including genitals, gonads and
9 chromosome patterns) that do not fit typical binary notions of male or
10 female bodies, all of which are natural bodily variations along a spectrum;

11 i. *Sexual Orientation* refers to the direction of emotional, sexual
12 attraction, or conduct towards people of the same sex (homosexual
13 orientation) or towards people of both sexes (bisexual orientation), or
14 towards people of the opposite sex (heterosexual orientation) or to the
15 absence of sexual attraction (asexual orientation); and

16 j. *Stigma* refers to the dynamic devaluation and dehumanization
17 of an individual in the eyes of others which may be based on attributes that
18 are arbitrarily defined by others as discreditable or unworthy, and which
19 result in discrimination when acted upon.

20 SEC. 4. *Discriminatory Practices*. - It shall be unlawful for any person,
21 natural or juridical, to engage in discrimination as defined in this Act, which
22 shall include:

23 (a) Denying access to public services, including military service, to
24 any person on the basis of sexual orientation or gender identity or
25 expression;

26 (b) Including sexual orientation or gender identity or expression, as
27 well as the disclosure of sexual orientation, in the criteria for hiring,
28 promotion, transfer, designation, work assignment, re-assignment,
29 dismissal of workers, and other human resource movement and action,
30 performance review, and in the determination of employee compensation,
31 access to career development opportunities, training, and other learning
32 and development interventions, incentives, privileges, benefits or
33 allowances, and other terms and conditions of employment: *Provided*

1 *That*, this provision shall apply to employment and skills training in both
2 the private sector and public service, including military, police, and other
3 similar services: *Provided, Further That* this prohibition shall likewise
4 apply to the contracting and engaging of the services of juridical persons;

5 (c) Refusing admission or expelling a person from any educational
6 or training institution on the basis of sexual orientation or gender identity
7 or expression, including discriminating against a student or trainee due
8 to the sexual orientation or gender identity or expression of the student's
9 parents or guardian: *Provided, However, That* the right of educational and
10 training institutions to determine the academic qualifications of their
11 students or trainees shall be duly upheld;

12 (d) Imposing disciplinary sanctions, penalties harsher than
13 customary or similar punishments, requirements, restrictions or
14 prohibitions that infringe on the rights of the students on the basis of
15 sexual orientation or gender identity or expression, including
16 discriminating against a student or trainee due to the sexual orientation
17 or gender identity or expression of the student's parents or guardian;

18 (e) Refusing or revoking the accreditation, formal recognition,
19 registration or plan to organize of any organization, group, political party,
20 institution, or establishment in educational institutions, workplaces,
21 communities, and other settings, solely on the basis of the sexual
22 orientation or gender identity or expression of their members or of their
23 target constituencies;

24 (f) Denying a person access to public or private medical and other
25 health services open to the general public on the basis of such person's
26 sexual orientation or gender identity or expression;

27 (g) Denying an application for or revoking a professional or other
28 similar kind of license, clearance, certification on, or any other similar
29 document, except marriage license, issued by the government due to the
30 applicant's sexual orientation or gender identity or expression;

31 (h) Denying a person access to or the use of establishments,
32 facilities, utilities, or services, including housing, open to the general
33 public on the basis of sexual orientation or gender identity or expression:

1 *Provided, That* the act of giving inferior accommodations or services shall
2 be considered a denial of access or use of such facility or service: *Provided*
3 *further, That* this prohibition covers acts of discrimination against
4 juridical persons solely on the basis of the sexual orientation or gender
5 identity or expression of their members or of their target constituencies;

6 (i) Subjecting or forcing any person to undertake any medical or
7 psychological examination to determine or alter, or both, the person's
8 sexual orientation or gender identity or expression without the expressed
9 approval of the person involved, except in cases where the person involved
10 is a minor and below the age of discernment in which case prior approval
11 of the appropriate Family Court shall be required. In the latter case, the
12 child shall be represented in the proceedings by the Solicitor General or
13 the latter's authorized representative;

14 (j) Harassment, coercion, or threats committed by members of
15 institutions involved in the enforcement of law and the protection of rights
16 of any person on the basis of sexual orientation or gender identity or
17 expression. Among other cases, prohibited acts under this section include
18 arresting or placing under custody, and subjecting a person to extortion,
19 physical, verbal abuse, or sexual abuse, regardless of whether such arrest
20 has legal or factual basis. Harassment, coercion, or threat of juridical
21 persons on the basis of the sexual orientation or gender identity or
22 expression of their members, stockholders, benefactors, clients, or
23 patrons is likewise covered by this provision;

24 (k) Publishing information intended to "out" or reveal the sex,
25 sexual orientation, or gender identity of persons without their consent,
26 when such has not been made known by the person/s concerned, and
27 has been made with malicious intent or is primarily motivated by a desire
28 for commercial profit;

29 (l) Engaging in public speech meant to shame, insult, vilify, or
30 which tends to incite or normalize the commission of discriminatory
31 practices against LGBTs, and which acts or practices in turn, intimidate
32 them or result in the loss of their self-esteem;

1 (m) Subjecting persons or groups of persons to harassment
2 generally defined as such unwanted conduct, pattern of conduct, act, or
3 series of acts which tend to annoy, insult, bully, demean, offend,
4 threaten, intimidate, alarm, or create a hostile or emotionally distressing
5 environment, or put them in fear of their safety; and which behavior is
6 motivated in whole or in part by the offender's bias, belief, or perception
7 regarding the offended party's gender, sexual orientation, gender identity
8 or expression, regardless of whether the belief or perception is correct.
9 Such prohibited act may include physical assault, stalking, or making
10 derogatory comments, slurs or lewd propositions, and may be conducted
11 through any form of medium, including but not limited to, visual
12 representation, broadcast communication, correspondence or
13 communication through mail or any telecommunication device, or
14 through the internet or cyberspace;

15 (n) Subjecting any person to gender profiling or to any
16 investigatory activities, which include (i) unnecessary, unjustified, illegal,
17 or degrading searches to determine whether an individual is engaged in
18 an activity presumed to be unlawful, immoral, or socially unacceptable;
19 (ii) recording and analyzing a person's psychological and behavioral
20 characteristics to make generalizations about a person's sexuality or to
21 assist in identifying a particular subgroup of people's sexual orientation
22 or gender identity;

23 (o) Preventing a child under parental authority, custody, or
24 guardianship from exhibiting or expressing one's sexual orientation or
25 gender identity; or manifesting rejection of such child's sexual orientation
26 or gender identity or expression by inflicting or threatening to inflict
27 bodily or physical harm against the child or by causing mental or
28 emotional suffering of the child through intimidation, harassment, public
29 ridicule or humiliation, repeated verbal abuse, or other similar means, or
30 in general, commit any act or omission prejudicial to the welfare and
31 interest of the child as a result of the bias against the sexual orientation
32 or gender identity of the child;

1 (p) Subjecting a person to any other analogous acts that shall have
2 the effect or purpose of impairing or nullifying the enjoyment, recognition,
3 or exercise of a person's rights and freedoms.

4 SEC. 5. *Privacy Rights.* - No person shall be burdened, prejudiced, or
5 prosecuted by reason of the exercise of the right to personal privacy.

6 SEC. 6. *Administrative Sanctions.* - Refusal of a government official
7 whose duty is to investigate, prosecute, or otherwise act on a complaint for a
8 violation of this Act or causing unreasonable delay to perform such a duty
9 without a valid ground shall constitute gross negligence on the part of the
10 official who shall suffer the appropriate penalty under civil service laws,
11 rules and regulations.

12 SEC. 7. *Penalties.* - A person who commits any discriminatory
13 practice described in Section 4 shall, upon conviction, be penalized by a fine
14 of not less than One hundred thousand pesos (P100,000) but not more than
15 Five hundred thousand pesos (P500,000) or imprisonment of not less than
16 one (1) year but not more than six (6) years or both, at the discretion of the
17 court. In addition, the court may impose upon a person found to have
18 committed any of the prohibited acts the rendition of community service in
19 terms of attendance in human rights education's familiarization with and
20 exposure to the plight of the victims.

21 If a graver offense motivated by bias, prejudice, or hatred against
22 sexual orientation or gender identity or expression is committed, such shall
23 be meted the corresponding maximum penalties.

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

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

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

4 SEC. 8. *Special Aggravating Circumstance.* – A person who commits
5 any of the crimes in the Revised Penal Code or any special law and who is
6 proven to have committed the same motivated by bias, prejudice, or hate
7 based on sex, sexual orientation, or gender identity or expression, shall
8 suffer the maximum penalty imposed by the Code or the relevant special law
9 for such prohibited act.

10 SEC. 9. *Redress mechanisms for SOGIE-related cases*

11 A. Inclusion of SOGIE Concerns in All Police Station Activities and
12 Services. – The Women and Children’s Desks now existing in all police
13 stations shall be renamed as Women, Children and Gender Rights
14 Protection Desk, which shall also act on and attend to complaints/cases
15 covered by this Act. In this regard, police handling said desks shall undergo
16 appropriate trainings with human rights-based approach to include among
17 others gender sensitivity and awareness in proper terminology, dynamics of
18 lesbian, gay, bisexual, and transgender (LGBT) relationships and hate crime
19 investigations.

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

22 B. Role of the Commission on Human Rights (CHR) – The CHR shall
23 investigate and recommend the filing of a complaint against any person
24 violating this Act. If the CHR has reasonable cause to believe that any
25 person or group of persons is committing acts penalized in Section 4 of this
26 Act, the CHR shall recommend a legal action in the appropriate prosecutor’s
27 office or court.

28 The CHR shall also direct the officer concerned to take appropriate
29 action against a public officer or employee at fault or who neglects to
30 perform an act or discharge a duty required under this Act, and recommend
31 the revocation of license, removal from office or employment, suspension,
32 demotion, fine, censure, or prosecution, and ensure compliance therewith.
33 Refusal by any officer without just cause to act on the recommendation of

1 the CHR to revoke the license, remove, suspend, demote, fine, censure, or
2 prosecute an officer or employee who is at fault, or who neglects to perform
3 an act or discharge a duty required under this Act, shall be a ground for
4 disciplinary action against said officer.

5 The CHR shall also document cases of discrimination on the basis of
6 sexual orientation or gender identity or expression and shall include these
7 documented cases in its annual human rights report. The Commission shall
8 actively provide recommendations to different branches of government on
9 how to address and eliminate discrimination on the basis of sexual
10 orientation or gender identity or expression.

11 SEC. 10. *Government Programs and Policies* – The State shall pursue
12 initiatives and programs that seek to establish and maintain an
13 environment free of stigma and discrimination. It shall direct the machinery
14 and resources of the State to promote non-discrimination and shall
15 encourage other sectors of the society to engage and participate in these
16 efforts. It shall ensure the implementation of the following programs:

17 A. Social Protection Programs - The national government shall ensure
18 that communities vulnerable to stigma and discrimination on the
19 basis of sexual orientation or gender identity or expression are
20 integrated into government-run social protection programs.

21 B. Diversity Programs and Trainings - All government agencies,
22 including government-owned and controlled corporations, local
23 government units (LGUs), private companies, public and private
24 education institutions, and other entities shall establish diversity
25 programs and shall endeavor to provide or conduct trainings for
26 their staff, employees, students and trainees, and constituents on
27 human rights, gender sensitivity and awareness, and sensitization
28 on the issue of violence and abuse to ensure that human rights
29 violations and violence on the basis of sexual orientation or gender
30 identity or expression are prevented. Such institutions may
31 incorporate these activities into existing gender sensitivity and
32 development training programs or school curricula. Finally, the
33 above-listed agencies, companies and institutions shall create an

1 internal redress mechanism to address cases of discrimination and
2 develop administrative remedies or sanction for such cases.

3 SEC. 11. *Empowering portrayal of LGBT persons in Media* – The
4 positive and empowering portrayal of LGBT by media shall be encouraged to
5 counter existing stereotypes and misconceptions that often lead to
6 discriminatory practices. Towards this end, incentives and awards shall be
7 provided to programs that defend the human rights of LGBT and contribute
8 to the empowerment of the LGBT community and its members.

9 SEC. 12. *SOGIE Equality Oversight Committee* - For the effective
10 implementation of this Act, there shall be created a Congressional Oversight
11 Committee, hereinafter referred to as the SOGIE Equality Oversight
12 Committee, within sixty (60) days after the enactment of this Act. The
13 SOGIE Equality Oversight Committee shall be composed of five (5) members
14 each from the Senate and the House of Representatives, which shall include
15 the Chairpersons of the Senate Committees on Women, Children, Family
16 Relations and Gender Equality, and of Justice and Human Rights, and the
17 Chairpersons of the House of Representatives Committees on Women and
18 Gender Equality, and of Human Rights. The members from the Senate and
19 the House of Representatives shall be appointed by the Senate President
20 and the Speaker, respectively, with at least one (1) member representing the
21 minority.

22 The SOGIE Equality Oversight Committee shall be chaired jointly by
23 the Chairpersons of the Senate Committee on Women, Children, Family
24 Relations and Gender Equality and the House Committee on Women and
25 Gender Equality. The position of Vice-Chairperson of the SOGIE Equality
26 Oversight Committee shall be jointly held by the Chairpersons of the Senate
27 Committee on Justice and Human Rights and the House Committee on
28 Human Rights. The Secretariat of the SOGIE Equality Committee shall
29 come from the Secretariat personnel of the Senate and the House of
30 Representatives committees concerned.

31 The SOGIE Equality Oversight Committee shall monitor the
32 compliance of public institutions to the provisions of this Act. Within three
33 (3) years after the enactment of this Act, the SOGIE Equality Oversight

1 Committee shall conduct an audit of national and local policies that
2 discriminate on the basis of sexual orientation or gender identity and
3 expression, and shall submit a report to Congress, the Office of the
4 President, and the Supreme Court, on this subject.

5 The SOGIE Equality Oversight Committee shall cease to exist six (6)
6 years after its organization.

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

18 SEC. 14. *Separability Clause*. - If any provision of this Act is declared
19 unconstitutional or otherwise invalid, the validity of the other provisions
20 shall not be affected thereby.

21 SEC. 15. *Repealing Clause*. - All laws, decrees, orders, rules and
22 regulations, or parts thereof inconsistent with this Act are hereby repealed
23 or modified accordingly.

24 SEC. 16. *Effectivity*. - This Act shall take effect fifteen (15) days after
25 its publication in the *Official Gazette* or in a newspaper of general
26 circulation.

27 Approved,