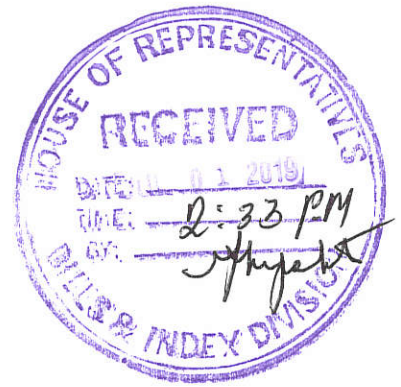


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 0487



INTRODUCED BY HONORABLE CHERYL P. DELOSO-MONTALLA

EXPLANATORY NOTE

This measure, in general, seeks to promote a society that values the dignity of every human person and guarantees full respect for human rights regardless of race, ethnicity, and religion. The bill is also the fulfilment of our international commitment under the International Convention on the Elimination of all Forms of Discrimination to ensure its full application in our national legal system through the creation of a domestic law with appropriate penal provisions.

The bill declares that it is the policy of the State, as enshrined in the Constitution, to maintain peace and order, protect life, liberty and property, and to promote the general welfare for the enjoyment of the blessings of democracy by all people. It is also the policy of the State to uphold human dignity and equality of all persons, regardless of race, age, gender, ethnicity or religion, consistent with its obligations as State Party to various international human rights instruments, particularly the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant of Economic, Social and Cultural Rights, the International Convention on the Elimination of Racial Discrimination and the Convention on the Elimination of Discrimination Against Women. As such, the State shall not allow the commission of acts which directly or indirectly derogate these fundamental human rights.

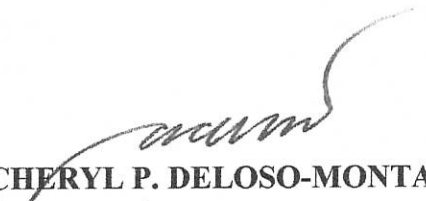
Fully cognizant of our government's commitments to the above-cited declarations and conventions, this bill refers to discrimination as any distinction, exclusion, restriction or reference made on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise on an equal footing, of the human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field of public life of a person. Discrimination also includes incitement to discriminate and harassment.

Prohibited acts under this measure include discrimination in political participation; discrimination in employment; discrimination in education and training; discrimination in the delivery of goods and services; discrimination in land, business and other accommodation; discrimination in access to public places, facilities and public meetings; discrimination in advertisements/mass media; discrimination by wrongful portrayal; discrimination through speech, utterances, acts of hatred and similar act; discrimination through analogous acts that result in impairment of the enjoyment of human rights and fundamental freedoms; discrimination through engaging in profiling; and discrimination through abuses of State and non-State actors. It also provides that there is vicarious liability if any employee or an agent of a person does an act of discrimination in connection with his or her duties as an employee or agent where the act is taken to be done because of the person's race, color, descent, national or ethnic origin, religion or religious affiliation or beliefs. Unless established that the person took all reasonable steps to prevent the employee or agent from doing the discriminatory act, then that person shall be liable of unlawful act under this provision.

The measure mandates the Commission on Human Rights (CHR), in coordination with the National Commission on Indigenous Peoples (NCIP) and the National Commission on Muslim

Filipinos (NCMF), to prevent or deter the commission on acts of discrimination and to assist, review and recommend procedures for the resolution, settlement or prosecution of acts of discrimination.

The immediate passage of this bill is earnestly sought.



CHERYL P. DELOSO-MONTALLA
Representative
2nd District, Zambales

Republic of the Philippines
HOUSE OF REPRESENTATIVES
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EIGHTEENTH CONGRESS
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HOUSE BILL NO. 0487

INTRODUCED BY HONORABLE CHERYL P. DELOSO-MONTALLA

AN ACT
PROHIBITING RACIAL, ETHNIC, AND RELIGIOUS DISCRIMINATION

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

SECTION 1. *Short Title.* – This Act shall be known as the “*Anti-Racial, Ethnic and Religious Discrimination Act.*”

SEC. 2. *Declaration of Policy.* – As enshrined in the Constitution, it is the policy of the State to:

(a) maintain peace and order, protect life, liberty and property, and to promote the general welfare for the enjoyment of the blessings of democracy by all people;

(b) promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life;

(c) recognize and promote the rights of indigenous cultural communities within the framework of national unity and development; and

(d) give the highest priority to the enactment of measures that protect and enhance the right of all people to human dignity; reduce social, economic and political inequalities; and remove cultural inequities by equitably diffusing wealth and political power for the common good.

It shall also be the policy of the State to uphold human dignity and equality of all persons, regardless of race, age, gender, ethnicity or religion, consistent with its obligations as State Party to various international human rights instruments, particularly the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of Racial Discrimination, the Convention on the Rights of Persons with Disabilities and the Convention on the Elimination of Discrimination Against Women. As such, the State shall not allow the commission of acts which directly or indirectly derogate these fundamental human rights.

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

(a) ***Discrimination*** refers to any distinction, exclusion, restriction or reference made on the basis of race color, descent, national or ethnic origin, religion, or religious affiliation or beliefs which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise on an equal footing, of the human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field of public life of a person. Discrimination includes incitement to discriminate and to harass.

(b) ***Education and Training*** refer to all types and levels of education and training, and shall include access, standard and quality of education and training, and the conditions under which these are given.

(c) ***Employment*** refers to the condition where an employer-employee relationship exists as determined by existing law and jurisprudence, including those pertaining to terms, conditions and privileges relating to work in public and private institutions, such as recruitment policies, application procedures, training, incentives, compensation, determination of benefits or allowances, promotion, advancement opportunities, transfer and dismissal.

(d) ***Ethnic Origin*** refers to the classification of people based on common color, racial, national, tribal, religious, ethno-linguistic or cultural origin or background.

(e) ***Ethno Linguistic Group*** refers to a group of people that shares a distinct language, cultural inheritance and history that give them a unique identity and which has racial, ethnic and religious bases.

(f) ***Goods and Services*** refer to the material and non-material products or things of value offered for sale to satisfy needs and wants for survival, comfort, or pleasure such as those provided by restaurants, resorts, hotels, clubs, stores and shopping malls; or acts or services provided by credit or financial establishments, public utilities and services, professionals, maintenance and repair workers, laborers and similar workers.

(g) ***Housing and other Accommodation*** refer to a house, apartment, condominium, townhouse, flat, motel, boarding house, hotel, dormitory, shelter, elderly home, rehabilitation facility, orphanage, health facility including a mental health facility, detention center, camping ground and other analogous places.

(h) ***Indigenous Peoples*** refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as an organized community on communally bounded and defined territory and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, become historically differentiated from the majority of Filipinos. Indigenous cultural communities and indigenous peoples shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

(i) ***Religious Affiliation or Belief*** refers to the profession or non-profession of religion or beliefs of one's choice that may be publicly manifested in worship, practice and teaching.

(j) ***Stereotype*** refers to a thought adopted about specific kinds of religions or ethnicities, or persons who practice a specific religion or who belong to a specific ethnic background, specifically with reference to their beliefs and ways of doing things, which are based upon oversimplified opinions or intolerant attitudes, regardless of whether such thoughts or beliefs accurately reflect reality.

(k) ***Stereotyping*** refers to any act or combination of acts which result in the singling out or profiling of a person or class of persons based on a stereotype as defined in the immediately preceding section, which results in a derogatory attitude towards any person or any derogatory treatment against such person or class of persons.

(l) **Vehicle** refers to a train, ship, bus, taxi or aircraft, and such other forms of public conveyance.

SEC. 4. Acts of Discrimination. – It is unlawful for any person, natural or juridical, to perform any act involving a distinction, exclusion, restriction or preference based on race, color, descent or national or ethnic origin, religion, or religious affiliation or beliefs which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing of any human right or fundamental freedom in the political, economic, social, cultural, civil or any other field of public life.

An act is deemed discriminatory when a person requires another person to comply with a term, condition or requirement which is not reasonable, having regard to the circumstances of the case; or the other person does not or cannot comply with the term, condition or requirement; and the requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing by persons of the same race, color, descent or national or ethnic origin, religion, or religious affiliation or beliefs.

SEC. 5. Prohibited Acts. –The following acts of discrimination, when committed on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs, of a person or any of one's relative, representative or assignee of that person, are deemed discriminatory, and shall be prohibited:

(a) **Discrimination in Political Participation.** – Any person acting as principal or as an agent shall be held liable for the commission of any of the following acts:

- (1) Preventing, impeding, prohibiting, obstructing or intervening in the exercise of political rights by another, including but not limited to the right to vote and be voted upon in a national or local election, both regular or special, or in a plebiscite, both initiative or referendum;
- (2) Imposing onerous terms before these political rights are granted, preserved or protected; or
- (3) Subjecting another person who wants to exercise a political right to any act of discrimination.

(b) **Discrimination in Employment.** –

(1) Any employer or head of a firm, company or organization shall be held liable for any of the following discriminatory acts:

- (i) Refusing or failing to employ another for work of any type or kind which is available and for which the person is qualified, or by imposing on the person onerous terms or conditions;
 - (ii) Denying or limiting access of an employee to the same terms and conditions of work, opportunities for training, transfer or promotion, or to other benefits connected with the employment as are made available for other employees having the same qualifications and employed in the same circumstances or work of the same kind or type, or by imposing on the person onerous terms and conditions; or
 - (iii) Dismissing an employee, or subjecting an applicant for employment or an employee to any act of discrimination on account of his employment.
- (2) Any person acting as principal or agent in procuring employment for other persons or procuring employees for an employer shall be held liable for treating an applicant seeking employment less favorably than another person in the same circumstances who is likewise seeking employment.

- (3) Any person acting as principal or agent of any organization of employers or employees, or any person acting or purporting to act on behalf of such organization, shall be liable for preventing or seeking to prevent a person from offering employment to another or for preventing the continued employment of a person.

(c) ***Discrimination in Education and Training.*** – Any person who heads or owns an educational institution, including any officer, employee or person acting on behalf of the head or owner of such institution shall be liable for any of the following discriminatory acts:

- (1) Refusing or failing to admit a student, or expelling a student from an educational institution on the basis of religious affiliation or belief, without prejudice to the right of educational institutions to determine the academic qualifications and non-academic training requirements of their students;
- (2) Denying or limiting access of a student to any benefit or privilege provided by the institution; or
- (3) Subjecting the student to any other act of discrimination against one's right to relevant education and training.

(d) ***Discrimination in the Delivery of Goods and Services.*** – Any person acting as principal or agent who supplies goods or services to the public or to any section of the public shall be liable for any of the following discriminatory acts:

- (1) Refusing or failing on demand to supply those goods or services to a person;
- (2) Refusing or failing on demand to supply those goods or services to another person except on less favorable terms or conditions than those upon whom they would otherwise supply those goods or services; or
- (3) Subjecting another person to any other act of discrimination in connection with the provision of goods or services.
- (4) Denying access to medical or health services open to the general public, and denying application for a license, clearance, certification or any other document issued by government authorities or other entities, with no lawful, valid or reasonable grounds.

(e) ***Discrimination in the Acquisition, Possession, Utilization, Lease or Disposal of Lands, including Housing and other Accommodations.*** –

- (1) Any person acting as principal or agent for acquiring, possessing, utilizing, leasing or disposing lands or interest thereof, including housing and other accommodations, shall be liable for any of the following discriminatory acts:
 - (iv) Refusing or failing to accept or process the application for any land or interest thereof, including housing and other accommodations;
 - (v) Disposing of such land or interest, or housing and other accommodations to another person on less favorable terms or conditions than those which are or would otherwise be offered;
 - (vi) Treating another person who is seeking to acquire or has acquired an estate, land or interest thereof, housing and other accommodations less favorably than to others in the same circumstances;
 - (vii) Refusing to permit another person to occupy any estate, land, housing and other accommodations;

- (viii) Excluding any estate, land or interest thereof of another person or rejecting the right of another person to occupy any estate, land or housing and other accommodations; or
- (ix) Subjecting an applicant to any other act of discrimination in the acquisition, possession, utilization, lease or disposal of estate, land or interest thereof, housing and other accommodations.

(2) Any person acting as principal or agent shall also be liable by imposing or seeking to impose on another person any term or condition that restricts the persons or class of persons who may be the clients, visitors, or guests of any estate, land, housing and other accommodations.

(f) ***Discrimination in Access to Public Places, Facilities and Public Meetings.*** –Any person acting as principal or agent shall be liable for any of the following discriminatory acts:

- (1) Refusing to allow another person access to or use of any place, vehicle or facilities that the general public or section thereof is entitled or allowed to enter or use;
- (2) Refusing to allow another person access to or use of any such place, vehicle or facilities by providing onerous terms or conditions not similar to others who are allowed access to or use of the place, vehicle or facilities;
- (3) Refusing to allow another person access to a meeting or assembly open to the general public or to a section thereof, or refusing to allow another access to a meeting or assembly by providing onerous terms or conditions not similar to others to which they would otherwise allow access to a meeting or assembly;
- (4) Requiring another person to leave or cease to use any public place, vehicle or any such facilities; or
- (5) Subjecting a person to a denial of access to public places, facilities or public meetings.

(g) ***Discrimination in Advertisements/Mass Media.*** –It shall be unlawful for a person to publish or display, or cause or permit to be published or displayed, an advertisement or notice that indicates or could reasonably be understood as an act of discrimination. Any person acting as principal or agent shall be liable for discrimination by:

- (1) Portraying certain persons in movies, films, and advertisements on television and other audio-visual forms and other publicly accessible documents as stupid, barbaric, savage, dirty, wild, ignorant, stupid and similar degrading or unrealistic portrayals; or
- (2) Publishing, displaying, or causing or permitting to be published or displayed an advertisement or notice that indicates or could reasonably be understood as an act of discrimination.

(h) ***Discrimination by Wrongful Portrayal.*** – Any person acting as principal or agent shall be held liable for portraying, imitating, depicting or describing in learning institutions, instructional materials, teaching devices, books and reference materials, especially in Civics and History, certain individuals and/or group/s as inferior religiously, racially or ethnically.

(i) ***Discrimination through Speech, Utterances, Acts of Hatred and Similar Act.*** – Any person shall be held liable for delivering speeches or making utterances, performing acts of hatred or violence against another person, or mocking or ridiculing another person.

(j) ***Discrimination through Analogous Acts that Result in Impairment of the Enjoyment of Human Rights and Fundamental Freedoms.*** – Any person acting as principal or agent shall be liable for analogous acts which have the effect or purpose of impairing or nullifying

the recognition, enjoyment or exercise of the person's human rights and fundamental freedoms in the political, economic, social, cultural, civil spheres or any other field of public life, and where such rights and freedoms are guaranteed and consistent with relevant international human rights instruments to which the Philippines is a State Party thereof, and where such analogous acts are committed on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs.

(k) ***Discrimination by Engaging In Profiling.*** - Any person acting as principal or agent, including any member of the military or law enforcement agencies, who subjects a person or group/s of persons to investigatory activities, such as unnecessary, unjustified, illegal and degrading searches and similar acts, which are unlawful, immoral or socially unacceptable.

(l) ***Discrimination through Abuses of State and Non-State Actors.*** - Any government official or employee of any government agency or corporation, local government unit, police, military or any law enforcement agency, including non-state actors, shall be liable if that official or employee commits acts of harassment, verbally or physically, to curtail freedom of movement of any person or group of persons, or to extort a favor from the latter, whether financial or not. This shall include acts of involuntarily detaining or confining a person or group of persons. This shall not include legitimate orders issued by persons in authority or courts of justice.

SEC. 6. *Person/s Liable.* - Any person, natural or juridical, including a government agency or a private corporation, institution or company, who performs a discriminatory act as described in the preceding section shall be liable under this Act.

Any person who requests, instructs, induces, encourages, authorizes or assists another to commit acts of discrimination shall also be liable under this Act. Any person who is duty-bound to act on complaints or discrimination under this Act but fails or refuses to do so shall be deemed to have sanctioned the discriminatory act, and shall consequently be held equally liable for discrimination.

SEC. 7. *Inciting Others to Commit Acts of Discrimination.* - Any person acting as principal or agent shall be liable for:

- (a) inciting the performance of an act that is unlawful by reason of a provision of this Act; or
- (b) assisting or promoting, whether by financial assistance or otherwise, the performance or perpetration of such an act.

SEC. 8. *Creation of Non-discrimination and Equal Opportunity Committee.* - In order to ensure compliance with this Act, all agencies, corporations, companies and educational institutions, whether private or public, as well as any person providing employment, housing, education and the delivery of basic goods and services shall create a Non-Discrimination and Equal Opportunity Committee, hereinafter referred to as Non-Discrimination Committee, which shall exercise administrative jurisdiction to investigate acts and practices of discrimination under this Act.

The Non-Discrimination Committee shall, among others, conduct the initial investigation of cases constituting discrimination on the basis of race, ethnic background, religion, religious affiliation or beliefs. The result and findings of such investigation shall be referred to the appropriate government agencies for resolution, settlement or prosecution.

Any administrative sanction on the perpetrator of discrimination shall not be a bar to any prosecution in the proper courts on any act of discrimination committed on the basis of race, ethnic background, religion, religious affiliation, religious beliefs, or to any civil claim for damages suffered by the victim of discrimination.

Failure of any juridical entity, whether public or private, to ensure effective implementation of this provision shall be deemed refusal to address discrimination and shall be considered as an act of discrimination subject to the penalty provided for in Section 11 hereof.

Section 9. Duty of the Commission on Human Rights (CHR). – It shall be the duty of the Commission on Human Rights (CHR), in coordination with the National Commission on Indigenous Peoples (NCIP) and the National Commission on Muslim Filipinos (NCMF), to prevent or deter the commission on acts of discrimination and to assist, review and recommend procedures for the resolution, settlement or prosecution of acts of discrimination. Towards this end, the CHR shall:

- (a) Ensure the creation of a committee on non-discrimination and equal opportunity in all agencies, corporations, companies and educational institutions, whether private or public;
- (b) Monitor the implementation of this Act by agencies, corporations, companies and educational institutions, whether private or public;
- (c) Establish guidelines and mechanisms that will facilitate access of discriminated persons to legal remedies under the Act and related laws, and enhance the protection and promotion of the rights of the Filipino people against discrimination;
- (d) Coordinate with the Department of Education (DepEd) and the Commission on Higher Education (CHED) for the promotion of understanding and appreciation of cultural diversity in schools and other learning modalities, and ensuring that books, reference materials, and other learning resources used in education programs are free from discriminatory content;
- (e) Conduct consultations with indigenous peoples, ethno-linguistic groups and religious organizations or religious communities; and
- (f) Assist in the filing of cases against individuals, agencies, institutions, or establishments, whether public or private, that violate the provisions of this Act. For this purpose, the CHR shall:
 - (1) Provide legal assistance to victims of discrimination such as through the preparation of necessary pleadings, referral letters, and counseling;
 - (2) Forge Memoranda of Agreement with Bar associations, nongovernmental organizations, law firms and organizations that provide legal aid to victims of discrimination to ensure adequate and competent legal representation for the complainants; and
 - (3) Create an efficient system of case referrals to appropriate government department or agencies.

SEC. 10. Responsibility to Promote a Non-Discrimination and Equal Opportunity Environment. – It shall be the duty of every person, natural or juridical, public or private, to ensure non-discrimination and equal opportunity to all persons when relating to actual or prospective employees, students, tenants, customers, or clients and that no discriminatory acts, as defined herein, are committed by them or their agents.

All government officers and workers are likewise obliged to be non-discriminatory in the discharge of their duties and responsibilities.

SEC. 11. Common Penal Provisions. – Any person liable under this Act shall be penalized by *arresto mayor* or imprisonment for a period of not less than thirty (30) days or not more than six (6) months and/or a fine of not less than Ten thousand pesos (Php 10,000.00) nor more than

One hundred thousand pesos (Php 100,000.00), taking into consideration the circumstances and gravity of the offense and the following conditions:

- (a) the penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;
- (b) when the offender is a corporation, partnership or association, the officer, agent or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period;
- (c) the penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity of the victim, or is the manager or owner of an establishment which has no license to operate or whose license has expired or has been previously revoked;
- (d) the offender who is a foreigner shall be deported immediately after service of sentence and shall be perpetually barred entry into the country;
- (e) the penalty provided for in this Act shall be imposed in its maximum period if the offender is a public official, officer or employee: Provided, that the penalty of suspension shall also be imposed; and
- (f) a fine to be determined by the court shall be imposed.

SEC. 12. *Administrative Proceedings and Sanctions.* – Upon finding by the Non-Discrimination Committee that a department, agency, or instrumentality of government, government-owned and controlled corporation, or local government unit has violated any provision of this Act and its implementing rules and regulations, or any private corporation or entity, the sanctions under administrative law, civil service, or other appropriate laws shall be recommended to the Civil Service Commission, or the Department of Interior and Local Government, in the case of government officials or employees, or to the Department of Labor, in the case of officers and employees of private corporations or entities. The person directly responsible for the violation as well as the head of the agency or local chief executive shall be held liable under this Act.

The failure of a head of agency, government official or employee whose duty is to prosecute or otherwise act on a complaint for a violation of this Act shall constitute neglect of duty on the part of such official or employee.

SEC. 13. *Reparation to Victims.* – In addition to existing laws and procedural rules or reparation to victims, the following measures shall be undertaken:

- (a) the court, administrative agency, or quasi-judicial body shall follow the principles relating to the reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. In their decisions, the court, administrative agency, or quasi-judicial body may, either upon request or on their own volition, in exceptional circumstances, determine the scope and extent of any damage, loss or injury to the victims, stating therein the principles on which they are acting;
- (b) the court, administrative agency, or quasi-judicial body may make an order directly against a person convicted by a judgement that has become final and executory, specifying appropriate reparation to, or in respect of victims, including restitution, compensation and rehabilitation; and
- (c) before making an order under this section, the court, administrative agency, or quasi-judicial body shall invite and shall take into account representations from, or on behalf of, the convicted person, victims or other interested persons.

Nothing in this section shall be interpreted as prejudicing the rights of victims under national or international law.

SEC. 14. Appropriations. - The Chairperson of the CHR shall include in the CHR's program the implementation of this Act, the initial funding of which shall be charged against the current appropriation of the Commission. Thereafter, the amount necessary for the continued implementation of this Act, shall be included in the annual General Appropriations Act (GAA).

SEC. 15. Implementing Rules and Regulations (IRR). - The CHR, in consultation with the NCIP, NCMF, and other stakeholders shall, within ninety (90) days from the effectivity of this Act, promulgate the rules and regulations to implement it.

SEC. 16. Repealing Clause. - Any provision of law or regulation inconsistent herewith is hereby repealed, revoked or modified accordingly.

SEC. 17. Separability Clause. - If any portion of this Act is declared as unconstitutional or invalid, the remaining portions not affected thereby shall continue to have force and effect.

SEC. 18. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,