

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 4474



Introduced by Hon. Francis Gerald Aguinaldo Abaya

EXPLANATORY NOTE

Article III, Section 1 of the 1987 Constitution provides that no person shall be denied the equal protection of the laws. Further, Article 1 of the Universal Declaration of Human Rights states that all human beings are born free and equal in dignity and rights. The right to be treated equally and fairly is such a basic human right that the framers of our Constitution as well as the General Assembly of the United Nations deemed it to be the very first among all the rights which must be protected. The hostile discrimination and oppression still experienced by Filipino lesbians, gays, bisexuals, transgenders, intersex, and queers (LGBTIQs) speak of the continuous failure of the State to protect the very dignity of its own citizens.

To comply with the constitutional mandate, this bill seeks to address the issue by penalizing those who commit discriminatory practices as well as provide for redress mechanisms in such cases. The proposed legislation also requires the government to pursue initiatives and programs to foster nondiscrimination. By combining both preventive and proactive measures, the bill hopes to finally uphold the State's guarantee to provide equal protection of the laws to all Filipinos.

In view of the foregoing, immediate approval of this bill is earnestly sought.


FRANCIS GERALD AGUINALDO ABAYA
Representative, First District, Cavite

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 4474

Introduced by Hon. Francis Gerald Aguinaldo Abaya

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 Equality Act".
2

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

10 Towards this end, the State shall exert efforts to address all forms of
11 discrimination, marginalization and violence on the basis of sexual orientation, or
12 gender identity or expression, and to promote human dignity as enshrined in the
13 United Nations Universal Declaration on Human Rights, the Convention on the
14 Elimination of All Forms of Discrimination Against Women, particularly the General
15 Recommendation No. 28 on Non-discrimination Based on Sexual Orientation and
16 Gender Identity, Convention on the Rights of the Child, International Covenant on Civil
17 and Political Rights, International Covenant on Economic, Social and Cultural Rights,
18 and all other relevant and universally-accepted human rights instruments and other
19 international conventions to which the Philippines is a signatory. In the enforcement of
20 this Act, all due respect shall be accorded to the fundamental right of parents in the
21 upbringing of their children in accordance with their religious convictions. In all matters,
22 the best interest of children shall be paramount
23

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

25 (a) *Child* refers to a person below eighteen (18) years of age or older but

1 who is incapable of taking care of oneself as defined under Republic Act No.
2 7610, as amended;

3 (b) *Discrimination* refers to any distinction, exclusion, restriction, or
4 preference which is based on any ground such as sex, sexual orientation,
5 gender identity or expression, and which has the purpose or effect of nullifying
6 or impairing the recognition, access to enjoyment, or exercise by all persons on
7 an equal footing of all rights and freedoms. The actual sex, sexual orientation,
8 or gender identity or expression of the person subjected to discrimination shall
9 not be relevant for the purpose of determining whether an act of discrimination
10 has been committed;

11 (c) *Gender expression* refers to the way a person communicates gender
12 identity to others through behavior, clothing, hairstyles, communication or
13 speech pattern, or body characteristics;

14 (d) *Gender identity* refers to the personal sense of identity as characterized,
15 among others, by manner of clothing, inclinations, and behavior in relation to
16 masculine or feminine conventions. A person may have a male or female
17 identity with the physiological characteristics of the opposite sex, in which case
18 this person is considered transgender;

19 (e) *Hate crimes* refer to criminal offenses committed against a person or a
20 group of persons, or against such targeted person's or group's honor or
21 property, motivated in whole or in part by the offender's bias against gender,
22 sexual orientation, gender identity or expression;

23 (f) *LGBT Community* refers to the collective of persons who are male and
24 female homosexuals (gays and lesbians, respectively), bisexual, and
25 transgender;

26 (g) *Marginalization* refers to a condition where a whole category of people
27 is excluded from useful and meaningful participation in political, economic,
28 social, and cultural life;

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

33 (i) *Sexual orientation* refers to the direction of emotional, sexual attraction,
34 or conduct towards people of the same sex (homosexual orientation) or towards
35 people of both sexes (bisexual orientation), or towards people of the opposite
36 sex (heterosexual orientation) or to the absence of sexual attraction (asexual
37 orientation); and

38 (j) *Stigma* refers to the dynamic devaluation and dehumanization of an
39 individual in the eyes of others which may be based on attributes that are
40 arbitrarily defined by others as discreditable or unworthy, and which result in
41 discrimination when acted upon.

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

3 (a) Denying access to public services to any person on the basis of sexual
4 orientation or gender identity or expression;

5 (b) Including sexual orientation or gender identity or expression, as well as
6 the disclosure of sexual orientation, in the criteria for hiring, promotion, transfer,
7 designation, work assignment, reassignment, dismissal of workers, and other
8 human resource movement and action, performance review, and in the
9 determination of employee compensation, access to career development
10 opportunities, training, and other learning and development interventions,
11 incentives, privileges, benefits or allowances, and other terms and conditions
12 of employment: *Provided*. That this provision shall apply to employment and
13 skills training in both the private sector and public service, including military,
14 police, and other similar services: *Provided, further*, That this prohibition shall
15 likewise apply to the contracting and engaging of the services of juridical
16 persons;

17 (c) Refusing admission or expelling a person from any educational or
18 training institution on the basis of sexual orientation or gender identity or
19 expression, including discriminating against a student or trainee due to the
20 sexual orientation or gender identity or expression of the student's parents or
21 guardian: *Provided, however*, That the right of educational and training
22 institutions to determine the academic qualifications of their students or trainees
23 shall be duly upheld;

24 (d) Imposing disciplinary sanctions, penalties harsher than customary or
25 similar punishments, requirements, restrictions or prohibitions that infringe on
26 the rights of the students on the basis of sexual orientation or gender identity
27 or expression, including discriminating against a student or trainee due to the
28 sexual orientation or gender identity or expression of the student's parents or
29 guardian;

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

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

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

1 (h) Denying a person access to or the use of establishments, facilities,
2 utilities, or services, including housing, open to the general public on the basis
3 of sexual orientation and gender identity and expression: *Provided*. That the act
4 of giving inferior accommodations or services shall be considered a denial of
5 access or use of such facility or service *Provided, further*, That establishments
6 will make available the existing toilets with facilities designated for persons with
7 disabilities also as gender neutral toilets: *Provided, finally*, That this prohibition
8 covers acts of discrimination against juridical persons solely on the basis of the
9 sexual orientation or gender identity or expression of their members or of their
10 target constituencies;

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

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

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

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

36 (m) Subjecting persons or groups of persons to harassment generally
37 defined as such unwanted conduct, pattern of conduct, act, or series of acts
38 which tend to annoy, insult, bully, demean, offend, threaten, intimidate, alarm,
39 or create a hostile or emotionally distressing environment, or put them in fear
40 of their safety; and which behavior is motivated in whole or in part by the
41 offender's bias, belief, or perception regarding the offended party's gender,
42 sexual orientation, gender identity or expression, regardless of whether the

1 belief or perception is correct. Such prohibited act may include physical assault,
2 stalking, or making derogatory comments, slurs or lewd propositions, and may
3 be conducted through any form of medium including, but not limited to, visual
4 representation, broadcast communication, correspondence or communication
5 through mail or any telecommunication device, or through the internet or
6 cyberspace;

7 (n) Subjecting any person to gender profiling or to any investigatory
8 activities, which include (1) unnecessary, unjustified, illegal, or degrading
9 searches to determine whether an individual is engaged in an activity presumed
10 to be unlawful, immoral, or socially unacceptable; and (2) recording and
11 analyzing a person's psychological and behavioral characteristics to make
12 generalizations about a person's sexuality or to assist in identifying a particular
13 subgroup of people's sexual orientation or gender identity;

14 (o) Preventing a child under parental authority, custody, or guardianship
15 from exhibiting or expressing one's sexual orientation or gender identity, or
16 manifesting rejection of such child's sexual orientation or gender identity or
17 expression by inflicting or threatening to inflict bodily or physical harm against
18 the child or by causing mental or emotional suffering of the child through
19 intimidation, harassment, public ridicule or humiliation, repeated verbal abuse,
20 or other similar means or, in general, commit any act or omission prejudicial to
21 the welfare and interest of the child as a result of the bias against the sexual
22 orientation or gender identity of the child; and

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

26
27 **SEC. 5. Privacy Rights.** - No person shall be burdened, prejudiced, or
28 prosecuted by reason of the exercise of the right to personal privacy.

29
30 **SEC. 6. Administrative Sanctions.** – Refusal of a government official whose
31 duty is to investigate, prosecute, or otherwise act on a complaint for a violation of this
32 Act or causing unreasonable delay to perform such a duty without a valid ground shall
33 constitute gross negligence on the part of the official who shall suffer the appropriate
34 penalty under civil service laws, rules and regulations.

35
36 **SEC. 7. Penalties.** - A person who commits any discriminatory practice
37 described in Section 4 of this Act shall, upon conviction, be penalized by a fine of not
38 less than one hundred thousand pesos (P100,000.00) but not more than five hundred
39 thousand pesos (P500,000.00) or imprisonment of not less than one (1) year but not
40 more than six (6) years, or both, at the discretion of the court. In addition, the court
41 may impose upon a person found to have committed any of the prohibited acts the
42 rendition of community service in terms of attendance in human rights education's

1 familiarization with and exposure to the plight of the victims.

2 If the violation or offense is committed by a corporation, partnership, association
3 or other juridical entities, the penalty provided for in this section shall be imposed upon
4 the directors, officers, employees or other officials or persons therein responsible for
5 the offense without prejudice to the civil liabilities arising from the criminal offense.

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

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

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

17 The penalties provided under this section shall be meted without prejudice to
18 the imposition of administrative liability for government officials and employees.

19
20 **SEC. 8. *Special Aggravating Circumstance.*** - A person who commits any of
21 the crimes in the Revised Penal Code or any special law and who is proven to have
22 committed the same motivated by bias, prejudice, or hate based on sex, sexual
23 orientation, or gender identity or expression, shall suffer the maximum penalty
24 imposed by the Code or the relevant special law for such prohibited act.

25
26 **SEC. 9. *Redress Mechanisms for SOGIE-related Cases.*** -

27 (a) Inclusion of SOGIE Concerns in All Police Station Activities and Services
28 - The Women and Children's Desks now existing in all police stations shall be
29 renamed as Women, Children and LGBTQ+ Protection Desk, which shall also
30 act on and attend to complaints/cases covered by this Act. In this regard, police
31 handling said desks shall undergo appropriate trainings with human rights-
32 based approach to include, among others, gender sensitivity and awareness in
33 proper terminology, dynamics of lesbian, gay, bisexual, and transgender
34 (LGBT) relationships and hate crime investigations. Complainant-minors can
35 be represented by parents, guardians, or a nongovernment organization of
36 good standing and reputation.

37 (b) Role of the Commission on Human Rights (CHR) - The CHR shall
38 investigate and recommend the filing of a complaint against any person
39 violating this Act. If the CHR has reasonable cause to believe that any person
40 or group of persons is committing acts penalized in Section 4 of this Act, the
41 CHR shall recommend a legal action in the appropriate prosecutor's office or
42 court.

1
2 The CHR shall also direct the officer concerned to take appropriate action
3 against a public officer or employee at fault or who neglects to perform an act
4 or discharge a duty required under this Act, and recommend the revocation of
5 license, removal from office or employment, suspension, demotion, fine,
6 censure, or prosecution, and ensure compliance therewith. Refusal by any
7 officer without just cause to act on the recommendation of the CHR to revoke
8 the license, remove, suspend, demote, fine, censure, or prosecute an officer or
9 employee who is at fault, or who neglects to perform an act or discharge a duty
10 required under this Act, shall be a ground for disciplinary action against said
11 officer.

12 The CHR shall also document cases of discrimination on the basis of sexual
13 orientation or gender identity or expression and shall include these documented
14 cases in its annual human rights report. The CHR shall actively provide
15 recommendations to different branches of government on how to address and
16 eliminate discrimination on the basis of sexual orientation or gender identity or
17 expression.

18
19 **SEC. 10. Government Programs and Policies.** - The State shall pursue
20 initiatives and programs that seek to establish and maintain an environment free of
21 stigma and discrimination. It shall direct the machinery and resources of the State to
22 promote nondiscrimination and shall encourage other sectors of the society to engage
23 and participate in these efforts. It shall ensure the implementation of the following
24 programs:

25 (a) Social Protection Programs - The national government shall ensure that
26 communities vulnerable to stigma and discrimination on the basis of sexual
27 orientation or gender identity or expression are integrated into government-run
28 social protection programs; and

29 (b) Diversity Programs and Trainings - All government agencies, including
30 government-owned and -controlled corporations, local government units
31 (LGUS), private companies, public and private education institutions, and other
32 entities shall establish diversity programs and shall endeavor to provide or
33 conduct trainings for their staff, employees, students and trainees, and
34 constituents on human rights, gender sensitivity and awareness, and
35 sensitization on the issue of violence and abuse to ensure that human rights
36 violations and violence on the basis of sexual orientation or gender identity or
37 expression are prevented. Such institutions may incorporate these activities
38 into existing gender sensitivity and development training programs or school
39 curricula. Finally, the above-listed agencies, companies and institutions shall
40 create an internal redress mechanism to address cases of discrimination and
41 develop administrative remedies or sanction for such cases.
42

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

7
8 **SEC. 12. *SOGIE Equality Oversight Committee.*** - For the effective
9 implementation of this Act, there shall be created a Congressional Oversight
10 Committee, hereinafter referred to as the SOGIE Equality Oversight Committee, within
11 sixty (60) days after the enactment of this Act. The SOGIE Equality Oversight
12 Committee shall be composed of five (5) members each from the Senate and the
13 House of Representatives, which shall include the Chairpersons of the Senate
14 Committees on Women, Children, Family Relations and Gender Equality, and of
15 Justice and Human Rights, and the Chairpersons of the House of Representatives
16 Committees on Women and Gender Equality, and of Human Rights. The members
17 from the Senate and the House of Representatives shall be appointed by the Senate
18 President and the Speaker, respectively, with at least one (1) member representing
19 the minority.

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

28 The SOGIE Equality Oversight Committee shall monitor the compliance of
29 public institutions to the provisions of this Act. Within three (3) years after the
30 enactment of this Act, the SOGIE Equality Oversight Committee shall conduct an audit
31 of national and local policies that discriminate on the basis of sexual orientation or
32 gender identity and expression, and shall submit a report to Congress, the Office of
33 the President, and the Supreme Court on this subject.

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

36
37 **SEC. 13. *Implementing Rules and Regulations.*** - Within sixty (60) days from
38 the effectivity of this Act, the CHR, the Department of Justice (DOJ), the Civil Service
39 Commission (CSC), the Philippine National Police (PNP), the Department of National
40 Defense (DND), the National Youth Commission (NYC), the Philippine Commission
41 on Women (PCW), the Commission on Population (POPCOM), the Department of
42 Labor and Employment (DOLE), the Department of Education (DepED), the

1 Commission on Higher Education (CHED), the Technical Education and Skills
2 Development Authority (TESDA), the Department of Health (DOH), and at least three
3 (3) civil society organizations (CSOs) with proven expertise and track record on
4 SOGIE concerns, shall promulgate the necessary rules and regulations for the
5 effective implementation of the provisions of this Act.
6

7 **SEC. 14. *Separability Clause.*** - If any provision of this Act is declared
8 unconstitutional or otherwise invalid, the validity of the other provisions shall not be
9 affected thereby.
10

11 **SEC. 15. *Repealing Clause.*** - All laws, decrees, orders, rules and regulations,
12 or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.
13

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

17 Approved,
18