

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



14 FEB 12 P3:35

SENATE
S.B. No. **2122**

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Introduced by: Senator Paolo Benigno "Bam" A. Aquino IV

AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF ETHNICITY, RACE, RELIGION OR BELIEF, POLITICAL INCLINATION, SOCIAL CLASS, SEX, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, CIVIL STATUS, HIV STATUS AND OTHER MEDICAL CONDITION AND PROVIDING PENALTIES THEREFOR

EXPLANATORY NOTE

The Bill of Rights in the 1987 Constitution guarantees equal protection for every Filipino, and prohibits discrimination of persons based on ethnicity, race, religion or belief, political inclination, social class, sex, gender, sexual orientation, gender identity, gender expression, civil status, medical condition, or any other status in the enjoyment of rights. The fundamental law also declares that the State values the dignity of every human person and guarantees full respect for human rights (Section 11, Article II, 1987 Constitution). It also imposes on the State the duty to ensure the fundamental equality before the law of women and men (Sec. 14, Id.).

In addition, the Philippines is a signatory to numerous international agreements that seek to ensure respect for the human rights of all persons regardless of ethnicity, race, religion or belief, political inclination, social class, sex, gender, sexual orientation, gender identity, gender expression, civil status, medical condition, or any other status. These international human rights instruments have been constantly upheld by international institutions, such as the United Nations Human Rights Committee and the United Nations Committee on Economic, Social and Cultural Rights.

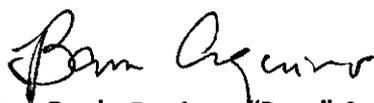
Unfortunately, reality has yet to catch up with the noble intentions of these numerous laws and international agreements. In schools, workplaces, commercial establishments, public service, police and the military, prejudicial practices and policies based on sexual orientation, gender and cultural identity limit the exercise and enjoyment of basic human rights and fundamental freedoms, as well as impede or delay the delivery of basic services.

We still see, for instance, employment practices that prioritize single over married job applicants, despite the fact that there is no empirical link between a person's civil status and his or her job performance. There are also other cultural practices that suppress an individual's right to practice his or her religion, faith, or cultural belief. Moreover, many Filipinos in indigenous communities have yet to be fully integrated into the workforce; ignorance about their cultural practices often leads to stigma and marginalization.

Moreover, the lesbian, gay, bisexual, and transsexual (LGBT) community continues to be oppressed through various forms of cruelty by society at large, primarily because of misconceptions and ignorance. LGBT students, for instance, are refused admission or expelled from schools due to their sexual orientation or gender identity. Companies block the promotion of LGBT employees due to the deeply embedded notion that homosexuality is an indication of weakness. Laws such as the anti-vagrancy law are also abused by law enforcement agencies to harass gay men. Government offices restrict or delay the delivery of services to deserving individual/s due to discrimination.

In a democratic society that claims to give equal access and opportunity to each of its citizens, many Filipinos are still treated as "second-class citizens" when they try to exercise the rights to which they are rightfully entitled.

There is, therefore, an urgent need to define and penalize practices that unjustly discriminate on the basis of ethnicity, race, religion or belief, political inclination, social class, sex, gender, sexual orientation, gender identity, gender expression, civil status, medical condition, or any other status. In view of the foregoing, and of the need to correct the long-standing discrimination against marginalized communities in Philippine society, the early passage of this bill is earnestly urged.


Senator Paolo Benigno "Bam" A. Aquino IV

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**AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF ETHNICITY, RACE, RELIGION
OR BELIEF, POLITICAL INCLINATION, SOCIAL CLASS, SEX, GENDER, SEXUAL ORIENTATION,
GENDER IDENTITY, GENDER EXPRESSION, CIVIL STATUS, HIV STATUS AND OTHER MEDICAL
CONDITION 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 bill shall be known as the Anti-Discrimination Act of 2014.

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

7 **Section 3. Definition of Terms** – For the purposes of this Act, the following terms shall
8 be defined as follows:

9 a. "Discrimination" constitutes any distinction, exclusion, restriction or preference or
10 other differential treatment that is directly or indirectly based on ethnicity, race, religion or
11 belief, political inclination, social class, sex, gender, sexual orientation, gender identity, gender
12 expression and HIV Status and other medical condition, which has the purpose or effect of
13 nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of political,
14 civil, economic, social, and cultural rights. Discrimination also includes incitement to
15 discriminate and harassment.

1 b. "Education and Training" refers to all types and levels of education, training, and
2 other avenues for learning and includes access thereto, the standard and quality thereof and
3 the conditions under which the same is given.

4 c. "Ethnic Origin" includes race, national origin, and ethno-linguistic origin.

5 d. "Employment" refers to all terms, conditions, and privileges relating to work in public
6 and private institutions, including recruitment policies, application procedures, training,
7 incentives, compensation, determination of benefits or allowances, promotion, advancement
8 opportunities, transfer, and dismissal.

9 This definition shall apply to regular, probationary, casual, contractual, fixed-term, and
10 seasonal workers. In legitimate contracting arrangements, the contractor/subcontractor shall
11 be deemed the employer of the contractual employee.

12 e. "Gender Identity" refers to the personal sense of identity or expression as
13 characterized, among others, by manners of clothing, inclinations, and behavior in relation to
14 masculine or feminine conventions. A person may have a male or female identity with the
15 physiological characteristics of the opposite sex.

16 f. "Gender Expression" refers to the outward manifestations of the cultural traits that
17 enable a person to identify as male or female according to patterns that, at a particular
18 moment in history, a given society defines as gender appropriate.

19 g. "HIV Status" pertains to the presence or absence of the human immunodeficiency
20 virus (HIV) in the body of an individual.

21 h. "Indigenous Peoples" refers to a group of people or homogenous societies identified
22 by self ascription and ascription by others, who have continuously lived as organized
23 community on communally bounded and defined territory, and who have, under claims of
24 ownership since time immemorial, occupied, possessed and utilized such territories, sharing
25 common bonds of language, customs, traditions and other distinctive cultural traits, or who
26 have, through resistance to political, social and cultural inroads of colonization, nonindigenous
27 religions and cultures, became historically differentiated from the majority of Filipinos.

1 “Indigenous Peoples” shall likewise include peoples who are regarded as indigenous on
2 account of their descent from the populations which inhabited the country, at the time of
3 conquest or colonization, or at the time of inroads of nonindigenous religions and cultures, or
4 the establishment of present state boundaries, who retain some or all of their own social,
5 economic, cultural and political institutions, but who may have been displaced from their
6 traditional domains or who may have resettled outside their ancestral domains;

7
8 i. “Political inclination” refers to a person's preference with regards to membership or
9 belief in a particular political party, organization or ideology.

10 j. “Profiling” means relying on the prohibited grounds of discrimination in subjecting a
11 person or group of persons to investigatory activities, which include unnecessary, unjustified,
12 illegal, and degrading searches, questioning or other investigatory activities, in determining
13 whether an individual is engaged in an activity presumed to be unlawful, immoral, or socially
14 unacceptable.

15 k. “Religious Belief” covers the profession or non-profession of religion or belief of one’s
16 choice that may be publicly or privately manifested in worship, observance, practice and
17 teaching.

18 l. “Sexual Orientation” refers to the direction of emotional sexual attraction or conduct.
19 This can be towards people of the same sex (homosexual orientation), towards people of both
20 sexes (bisexual orientation), towards neither, or towards people of the opposite sex
21 (heterosexual orientation).

22 m. “Social class” refers to groupings of individuals usually based on wealth, educational
23 attainment, occupation, income, and membership in a subculture or social network.

24 n. “Stigma” refers to the dynamic process of devaluation that significantly discredits an
25 individual in the eyes of others. When stigma is acted upon, the result is discrimination.

26 o. “Vulnerable communities” refers to communities or sectors that encounter stigma
27 and discrimination based on the grounds enumerated in Section 4.

1 **Section 4. *Prohibited grounds for discrimination.*** – For the purposes of this Act,
2 discrimination that is indirectly or directly based on the actual or perceived ethnicity, race,
3 religion or belief, political inclination, social class, sex, gender, sexual orientation, gender
4 identity, gender expression, civil status, disability, HIV Status and other medical condition is
5 prohibited.

6 **Section 5. *Discriminatory Acts.*** - The following acts shall be prohibited:

7 a. **Inflicting stigma** – it shall be unlawful for any person to commit any acts that promote
8 and encourage stigma based on the grounds referred to in Section 4.

9 b. **Denial of political, civil, and cultural rights** – it shall be unlawful to deny a person
10 enjoyment of political, civil and cultural rights based on the grounds referred to Section 4.

11 c. **Denial of right to education** – It is unlawful for any person to:

12 1. Refuse admission or expel a person from any educational or training institution on
13 the basis of the grounds defined in Section 4, without prejudice to the right of
14 educational or training institutions to determine the academic qualifications of their
15 students or trainees;

16 2. Impose disciplinary sanctions, penalties harsher than customary, or similar
17 punishments, requirements, restrictions, or prohibitions that infringe on the rights
18 of the students on the basis of the grounds identified in Section 4.

19 This prohibition extends to acts committed against a student or trainee to discriminate
20 his or her parents or legal guardians based on grounds referred to in Section 4.

21 d. **Denial of right to work** – it is unlawful for any person to:

22 1. Use the grounds in Section 4 or require the disclosure thereof in the selection,
23 promotion, and termination of workers, and in the determination of compensation,
24 training, incentives, privileges, benefits or allowances, as well as other terms and
25 conditions of employment;

1 2. Deny employment in government institutions, including police and military
2 service, based directly or indirectly on the grounds referred to in Section 4;

3 3. Refuse to enter into contract or agreement with persons or group of persons
4 based solely or partly on the grounds provided in Section 4; and

5 4. Deny an application for or revoke a professional license issued by the government
6 directly or indirectly due to the grounds included in Section 4.

7 e. Denial of access to goods and services – it is unlawful for any person to:

8
9 1. Deny a person, solely or partly on the basis of the grounds in Section 4, of goods
10 and services available to the general public, such as but not limited to availment of
11 services from the different agencies or offices of the government, private and public
12 insurance, housing and other forms of accommodation, medical and clinical services;

13 2. Refuse entry to or evict a person from any establishment, facilities or utilities that
14 are open to the general public, such as but not limited to restaurants, bars, hotels,
15 shopping malls, solely or partly on the basis of the grounds listed in Section 4; and,

16 3. Cause undue and unjust deferral or delay of services or provision of inferior
17 services to persons due to the grounds in Section 4.

18 There is discrimination if the acts above are committed against organizations or groups
19 of persons based on the grounds identified in Section 4.

20 f. *Denial of right to organize* – It shall be unlawful to prohibit, prevent, or revoke the
21 accreditation, formal recognition, and/or registration of any organization, group, political party,
22 institution or establishment, in educational institutions, workplaces, communities, and other
23 settings, based partly or solely on the grounds provided for in Section 4.

24 Discrimination is also committed when additional requirements beyond the customary
25 are imposed directly or indirectly due to the grounds stipulated in Section 4.

1 g. Inflicting harm on health and well-being – it shall be unlawful to force any person to
2 any medical or physical examination, psychological treatment, faith-based practices, and other
3 similar procedures based solely or partly on any of the grounds referred to in Section 4.

4 h. Engaging in profiling – It shall be illegal for any person, including members of the
5 military and law enforcement agencies, to engage in profiling based solely or partly on the
6 grounds included in Section 4.

7 i. Abuses by state and non-state actors – It shall be unlawful for any government
8 agencies, including local government units, police, military, and immigration, to harass verbally
9 or physically, to curtail freedom of movement, or to extort from a person or a group of persons
10 on the basis of the grounds stipulated in Section 4. This prohibition applies to similar abuses
11 committed by non-state actors.

12 j. Detention and confinement - It shall be unlawful to detain and confine a person or
13 groups of persons based directly or indirectly on the grounds under Section 4.

14
15 k. Other analogous circumstances - Any analogous acts which shall have the effect or
16 purpose of impairing or nullifying the recognition, enjoyment, or exercise of the person's
17 human rights and fundamental freedoms are also prohibited.

18
19 **Section 6. Exceptions** – It shall not be unlawful for an employer, labor contractor or
20 labor organization:

21 a. To take any action otherwise prohibited under Sections 4 and 5 of this Act where
22 ethnicity, race, religion or belief, political inclination, social class, sex, gender,
23 sexual orientation, gender identity, gender expression, civil status, disability,
24 HIV Status and other medical condition, are bona fide occupational
25 qualifications reasonably necessary to the normal operation of the particular
26 business or where the differentiation is based on reasonable factors;

27 b. To discharge or otherwise discipline an individual for just causes under the Labor
28 Code or other related laws;

29 c. To take any other action otherwise prohibited under Sections 4 and 5 of this Act,
30 provided that said action be duly certified by the Secretary of Labor and
31 Employment to be in accordance with the purposes of this Act.

1 **Section 7. *Persons Liable*** – Any person, natural or juridical, or their representatives,
2 including government, government-owned and controlled corporations, or any private
3 corporation, institution or company, who knowingly and deliberately commits any of the acts
4 under Section 5, shall be liable under this Act.

5 Any person, natural or juridical, or their representatives, who requests, instructs,
6 induces, encourages, authorizes, tolerates, or assists another to commit any of the acts under
7 Section 5 shall also be principally liable under this Act.

8 **Section 8. *Programs to promote non-discrimination and diversity*** – The State shall
9 endeavor to eliminate all forms of discrimination and shall therefore pursue initiatives and
10 programs that seek to enable an environment free of stigma and discrimination. It shall direct
11 the machinery and resources of the State to ensure non-discrimination and promote equality
12 and shall encourage other sectors of the society to engage and participate in these efforts. It
13 shall ensure the establishment of the following programs:

14 a. **Social Protection Program** – The national government shall implement social
15 protection measures for communities affected by and vulnerable to stigma and discrimination.

16 b. **Diversity Programs and policies** - All government agencies, government-owned and
17 controlled corporations, private companies, public and private educational institutions, and
18 other entities shall establish diversity programs to ensure that discrimination and abuse are
19 prevented. They shall also create an internal redress mechanism to address cases of
20 discrimination and grant administrative remedies or sanctions for such cases.

21 The Civil Service Commission, Department of Labor and Employment, Department of
22 Interior and Local Government, the Armed Forces of the Philippines, Department of Education,
23 Commission on Higher Education, Technical Education and Skills Development Authority,
24 Department of Justice, Department of Foreign Affairs, Department of Health, the National
25 Youth Commission, the Philippine Commission on Women, the National Commission on Muslim
26 Affairs, and the National Commission on Indigenous Peoples shall ensure the implementation of
27 this section.

1 Failure of the above agencies to ensure the implementation of this provision shall be
2 deemed refusal to address discrimination and shall be penalized as an analogous act of
3 discrimination.

4 **Section 9. Duties of the Commission on Human Rights.** – The Commission shall
5 investigate and recommend the filing of a complaint against any person/s violating this Act. If
6 the Commission has reasonable cause to believe that any person or group of persons is
7 engaged in discrimination under this Act, the Commission shall recommend a legal action in the
8 appropriate prosecutor’s office or court.

9 The Commission shall also direct the officer concerned to take appropriate action
10 against a public officer or employee at fault or who neglects to perform an act or discharge a
11 duty required under this Act, and recommend the revocation of license, removal from office or
12 employment, suspension, demotion, fine, censure, or prosecution, and ensure compliance
13 therewith. Refusal by any officer without just cause to comply with an order of the Commission
14 to revoke the license, remove, suspend, demote, fine, censure, or prosecute an officer or
15 employee who is at fault, or who neglects to perform an act or discharge a duty required under
16 this Act, shall be a ground for disciplinary action against said officer.

17 **Section 10. Penalties.** – Persons found guilty of any of the discriminatory practices
18 under Section 5 (A), 5 (B), 5 (E), 5 (F), and 4 (K) of this Act shall be penalized with a fine of not
19 less than One Hundred Thousand Pesos (P100,000) but not to exceed Two Hundred and Fifty
20 Thousand Pesos (P250,000) or imprisonment of two (2) years but not more than six (6) years, or
21 both at the discretion of the court.

22 Persons found guilty of any of the discriminatory practices under Section 5 (C), 5 (D), 5
23 (G), 5 (H), 5 (I), 5 (J) and 5 (K) of this Act shall be penalized with a fine of not less than Two
24 Hundred Fifty Thousand Pesos (P250,000) but not to exceed Five Hundred Thousand Pesos
25 (P500,000) or imprisonment of six (6) years but not more than twelve (12) years, or both at the
26 discretion of the court.

27 If the violator is a corporation, organization or any similar entity, the officials thereof
28 directly involved shall be liable therefor.

29 If the violator is an alien or a foreigner, he shall be deported immediately after service of
30 sentence without further deportation proceedings.

1 Persons found guilty of any of the discriminatory practices prohibited under this Act
2 shall also be civilly liable.

3 The administrative remedies provided under this Act do not bar prosecution or civil
4 claims in proper courts for any act of discrimination committed under this Act.

5 If any crime penalized under the Revised Penal Code is committed in pursuit of
6 discrimination, the penalty provided under the Revised Penal Code shall be applied and the
7 discrimination committed shall be considered as an aggravating circumstance.

8 **Section 11. Appropriations.** – The initial amount necessary to implement the provisions
9 of this Act shall be charged against the current year's appropriation of the agencies tasked to
10 implement the provisions of this Act. Thereafter, such sums as maybe necessary for the
11 continued implementation of this Act shall be included in the Annual General Appropriations
12 Act.

13 **Section 12. Implementing Rules and Regulations.** – The CHR in coordination with the
14 Civil Service Commission, Department of Labor and Employment, Department of Interior and
15 Local Government, the Armed Forces of the Philippines, Department of Education, Commission
16 on Higher Education, Technical Education and Skills Development Authority, Department of
17 Justice, Department of Foreign Affairs, Department of Health, National Commission on
18 Indigenous Peoples, and National Commission on Muslim Filipinos shall promulgate the
19 necessary implementing rules and regulations within sixty (60) days from the effectivity of this
20 Act.

21 **Section 13. Separability clause.** – Any portion or provision of this Act that may be
22 declared unconstitutional or invalid shall not have the effect of nullifying the other portions and
23 provisions hereof as long as such remaining portion or provision can still subsist and be given
24 effect in their entirety.

25 **Section 14. Repealing clause.** – All laws, decrees, orders, rules and regulations or
26 parts thereof inconsistent with this Act are hereby repealed, amended, or modified accordingly.

27 **Section 15. Effectivity.** – This Act shall take effect fifteen (15) days after its publication
28 in the Official Gazette or in at least two (2) newspapers of general circulation.

Senate Bill No. _____

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1 Approved: _____