



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

NINETEENTH CONGRESS
First Regular Session

House Bill No. 222



Introduced by Representative **GERALDINE B. ROMAN**

EXPLANATORY NOTE

This Bill seeks to define, prohibit and penalize situations and practices wherein discrimination on the basis of sexual orientation and gender identity occur. It also aims to protect members of the LGBT community and guarantee their rights as citizens of the Republic of the Philippines and their rights as human beings.

Although it is claimed the Philippine society is tolerant and accepting of members of the LGBT community, in practice and in terms of legal protection, they are no specific national laws that address this kind of discrimination from which this sector of society suffers. Although the very Preamble of the Philippine Constitution enshrines “equality” among the core values of our Republic, there is no law which enables and guarantees this provision for the members of the LGBT community.

As a result, members of the LGBT community are treated unjustly and experience inequality in diverse situations such as the workplace, the family, schools, social and leisure venues, sports and business. More adversely, members of this community have also suffered hate crimes leading to their loss of dignity, if not life and limb without the protection of the laws that faithfully reflect the true nature of the crime or violation.

It is the hope of this proposed law to put an end to this situation of non-protection and neglect, while upholding the fundamental rights and human dignity of members of the LGBT community towards the attainment of an inclusive society where all citizens are equal.

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


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

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, gender identity or expression, or
6 sex characteristics (hereinafter referred as "SOGIESC") to be free from any form of
7 discrimination. It shall therefore intensify its efforts to fulfill its duties under the Equal
8 Protection 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 dignity of
10 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 SOGIESC, and to

promote human dignity as enshrined in the United Nations Universal Declaration on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, particularly the General Recommendation No. 28 on Non-discrimination Based on Sexual Orientation and Gender Identity, Convention on the Rights of the Child, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, and all other relevant and universally-accepted human rights instruments and other international conventions to which the Philippines is a signatory.

SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall be defined as follows:

- a. a. *Bisexual* refers to a person who has the capacity to form enduring physical, romantic, and/or emotional attractions to those of the same gender or to those of another gender;
- b. *Child* refers to a person below eighteen (18) years of age or older but who is incapable of taking care of oneself as defined under Republic Act No. 7610, as amended;
- c. *Discrimination* refers to any distinction, exclusion, restriction, or preference which is based on any ground such as sex or SOGIESC, and which has the purpose or effect, whether direct or indirect, of nullifying or impairing the recognition, access to, enjoyment, or exercise by all persons on an equal footing of all rights and freedoms. The actual sex or SOGIESC of the person subjected to discrimination shall not be relevant for the purpose of determining whether an act of discrimination has been committed. Direct discrimination occurs where a person is treated less favorably than another person in the same or comparable circumstances on the ground of their SOGIESC. Indirect discrimination occurs where an apparently

neutral condition or requirement is imposed which has the effect of disadvantaging a person of diverse SOGIESC and which is not reasonable in the circumstances;

d. *Gay* refers to a person who identifies himself as a man and whose enduring physical, romantic, and/or emotional attractions are to people who also identifies themselves as men;

e. *Gender* refers to a social construct used to categorize a person as man, woman, or other identity, which is usually based on one's sex assigned at birth;

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

g. *Gender Identity* refers to a person's innermost concept of self as man, woman, or another non-binary identity which may or may not correspond with their sex or gender assigned at birth;

h. *Harassment* refers to such unwanted conduct, pattern of conduct, act, or series of acts which tend to annoy, insult, bully, demean, offend, threaten, intimidate, alarm, or create a hostile or emotionally distressing environment, or put a person or group of persons in fear of their safety;

i. *Hate Crimes* refer to criminal offenses committed against a person or a group of persons, or against such targeted person's or group's honor or property, motivated in whole or in part by the offender's bias against SOGIESC;

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

k. *Lesbian* refers to a person who identifies herself as a woman and whose enduring physical, romantic, and/or emotional attractions are to people who also identify themselves as women;

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

m. *Persons of Diverse SOGIESC* refer to the collective of persons who are man and woman homosexuals (gays and lesbians, respectively), bisexual, transgender, and intersex, among others;

n. *Reasonable accommodation* means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons of diverse SOGIESC the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

o. *Sex* refers to the civil status of a person acquired by birth having a system of reproduction corresponding to that belonging to either male, female or intersex;

p. *Sex characteristics* refers to a person's physical traits that indicate their biological sex, such as chromosomes, external genitalia, gonads, hormones, and internal reproductive organs. Traits present at birth are called primary sex characteristics, whereas those that develop during puberty are called secondary sex characteristics;

q. *Sexual Orientation* refers to the direction of emotional, sexual attraction, or conduct towards people of the same gender (homosexual orientation) or towards people of more than one gender (bisexual orientation), or towards people of the opposite different gender (heterosexual orientation) or to the absence of sexual attraction (asexual orientation);

r. *Stigma* refers to the dynamic devaluation and dehumanization of an individual in the eyes of others which may be based on attributes that are arbitrarily

defined by others as discreditable or unworthy, and which result in discrimination when acted upon; and

s. *Transgender* refers to a person whose gender identity does not align with the sex or gender assigned at birth, frequently abbreviated to “trans”;

SEC. 4. *Communities Vulnerable to Discrimination and Abuse on the Basis of SOGIESC.* - This Act seeks to protect individuals and communities that are at a greater risk of experiencing human rights violations on the basis of SOGIESC, including individuals and communities of diverse SOGIESC who are children, young, poor, differently abled, of different ethnic background, or cultural background, and of various religious belief.

For this purpose, discrimination on the grounds of a person’s SOGIESC intersecting or compounded by other grounds and factors such as age, racial or ethnic origin, religious belief or activity, political inclination or conviction, social class, economic status, marital or relationship status, disability, HIV status, health status or medical history, language, physical features, or other status shall be considered a discriminatory practice.

SEC 5. *Discriminatory Practices.* - It shall be unlawful for any person, natural or juridical, to engage in discrimination as defined in this Act, which shall include:

(a) Advertising, producing, and publishing in the media, in educational textbooks, and other medium that has the effect of promoting, encouraging and perpetuating stigma or inciting violence and sexual abuse against any person or group on the basis of SOGIESC;

(b) Denying access to public services to any person on the basis SOGIESC;

(c) Including SOGIESC, as well as the disclosure of one's SOGIESC, in the criteria for hiring, promotion, transfer, designation, work assignment, re-assignment, dismissal of workers, and other human resource movement and action, performance review, and in the determination of employee compensation, access to career development opportunities, training, and other learning and development interventions, incentives, privileges, benefits or allowances, and other terms and conditions of employment: *Provided, That* this provision shall apply to employment and skills training in both the private and public, including military, police, and other similar services: *Provided Further, That* this prohibition shall likewise apply to the contracting and engaging of the services of juridical persons;

(d) Refusing admission or expelling a person from any educational or training institution, including police and military academies or training institutions, on the basis of SOGIESC, including discriminating against a student or trainee due to the SOGIESC of the student's parents or guardian, court-appointed or otherwise;

(e) Imposing disciplinary sanctions, penalties harsher than customary or similar punishments, requirements, restrictions or prohibitions that infringe on the rights of the students on the basis of SOGIESC, including discriminating against a student or trainee due to the SOGIESC of the student's parents or guardian, court-appointed or otherwise;

(f) Refusing or revoking the accreditation, formal recognition, registration or plan to organize of any organization, group, political party, institution, or establishment in educational institutions, workplaces, communities, and other settings, solely on the basis of the SOGIESC of their members or of their target constituencies;

(g) Denying a person access to public or private medical and other health services open to the general public on the basis of such person's SOGIESC;

(h) Denying an application for or revoking a professional or other similar kind of license, clearance, certification on, or any other similar document, except marriage license, issued by the government due to the applicant's SOGIESC;

(i) Denying a person access to or the use of establishments, facilities, utilities, or services, including housing, open to the general public on the basis of SOGIESC: *Provided, That* the act of giving inferior accommodations or services shall be considered a denial of access or use of such facility or service: *Provided further, That* this prohibition covers acts of discrimination against juridical persons solely on the basis of the SOGIESC of their members or of their target constituencies;

(j) Subjecting or forcing any person to undertake any medical or psychological examination to determine or alter, or both, the person's SOGIESC without the expressed approval of the person involved, except in cases where the person involved is a minor and below the age of discernment in which case prior approval of the appropriate Family Court shall be required. In the latter case, the child shall be represented in the proceedings by the Solicitor General or the latter's authorized representative;

(k) Harassment, coercion, or threats committed on the basis of one's SOGIESC by those involved in the enforcement of law, regulations or directives, and the protection of rights of any person, whether they belong to the public or private sector. Among other cases, prohibited acts under this section include arresting or placing under custody, and subjecting a person to extortion, physical, verbal abuse, or sexual abuse, regardless of whether such arrest has legal or factual basis. Harassment, coercion, or threat of juridical persons on the basis of

the SOGIESC of their members, stockholders, benefactors, clients, or patrons is likewise covered by this provision;

(l) Publishing information intended to "out" or reveal the sex or SOGIESC of persons without their consent, whether or not done in good faith, when such has not been made known by the person/s concerned;

(m) Engaging in public speech meant to shame, insult, vilify, or which tends to incite or normalize the commission of discriminatory practices against persons of diverse SOGIESC, and which acts or practices in turn, intimidate them or result in the loss of their self-esteem;

(n) Subjecting persons or groups of persons to harassment which is motivated in whole or in part by the offender's bias, belief, or perception regarding the offended party's SOGIESC, regardless of whether the belief or perception is correct. Such prohibited act may include physical assault, stalking, or making derogatory comments, slurs or lewd propositions, and may be conducted through any form of medium, including but not limited to, visual representation, broadcast communication, correspondence or communication through mail or any telecommunication device, or through the internet or cyberspace;

(o) Subjecting any person, natural or juridical, to gender profiling or to any investigatory activities, which include (i) unnecessary, unjustified, illegal, or degrading searches to determine whether an individual is engaged in an activity presumed to be unlawful, immoral, or socially unacceptable; (ii) recording and analyzing a person's psychological and behavioral characteristics to make generalizations about a person's SOGIESC or to assist in identifying a particular subgroup of people's SOGIESC;

(p) Preventing a child under parental authority, custody, or guardianship, whether court appointment or otherwise, from exhibiting or expressing one's

SOGIESC; or manifesting rejection of such child's SOGIESC by inflicting or threatening to inflict bodily or physical harm against the child or by causing mental or emotional suffering of the child through intimidation, harassment, public ridicule or humiliation, repeated verbal abuse, or other similar means, or in general, commit any act or omission prejudicial to the welfare and interest of the child as a result of the bias against the SOGIESC of the child;

(q) Adopting a measure or practice of general or neutral application which fails to provide for mechanisms to offset or address SOGIESC-based disadvantages or limitations as a result of which persons of diverse SOGIESC are denied or restricted in the recognition and protection of their rights and in their access to and enjoyment of opportunities, benefits, or privileges otherwise available to other persons: *Provided, That* this provision includes denial of reasonable accommodation: *Provided Further, That* such prohibited act may include, among others, economic assistance programs extended only to families traditionally consisting of heterosexual couples, whether *de facto* or legally recognized, to the exclusion of those consisting of couples of diverse SOGIESC; and

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

SEC. 6. *Privacy Rights.* – No person shall be burdened, prejudiced, or prosecuted by reason of the exercise of the right to personal privacy, unless it can be shown that there is a compelling reason or interest justifying the infringement of said constitutional right, and there is no other less restrictive means to achieve said reason or interest.

SEC. 7. *Administrative Sanctions.* - Refusal of a government official or employee or those involved in the enforcement of law whose duty is to implement any part of this Act, to investigate, prosecute, comply with the directive of the Commission on Human Rights (CHR), or otherwise act on a complaint for a violation of this Act or causing unreasonable delay to perform such a duty without a valid ground shall constitute gross negligence on the part of the official who shall suffer the appropriate penalty under civil service laws, rules and regulations.

SEC. 8. *Penalties.* - A person who commits any discriminatory practice described in Section 5 shall, upon conviction, be penalized by a fine of not less than One hundred thousand pesos (P100,000) but not more than Five hundred thousand pesos (P500,000) or imprisonment of not less than one (1) year but not more than twelve 12 years or both, at the discretion of the court. In addition, the court may impose upon a person found to have committed any of the prohibited acts the rendition of community service in terms of attendance in human rights education's familiarization with and exposure to the plight of the victims.

If the violation or offense is committed on the grounds of a person's SOGIESC intersecting or compounded by other grounds and factors mentioned in Section 4, the penalty shall be imposed in its maximum.

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

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

Nothing in this Act shall preclude the victim from instituting a separate and independent action for damages and other affirmative reliefs or such other cases for violation of other applicable penal laws.

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

SEC. 9. Special Aggravating Circumstance. – If any civil, criminal, or administrative offense, not falling under this Act, is committed and proven to be motivated by bias, prejudice, or hate based on SOGIESC, said offense shall be aggravated and the corresponding penalty provided thereto shall be imposed in its maximum.

SEC. 10. Redress Mechanisms for SOGIESC-related Cases. –

(a) Inclusion of SOGIESC Concerns in All Police Station Activities and Services – The Women and Children's Desks now existing in all police stations shall be renamed as Women, Children and Persons of Diverse SOGIESC Protection Desk, which shall also act on and attend to complaints/cases covered by this Act. In this regard, police handling said desks shall undergo appropriate trainings with human rights-based approach to include among others gender sensitivity and awareness in proper terminology, and in the dynamics of relationships existing between persons of diverse SOGIESC as applied in ~~and~~ hate crime investigations, case handlings, and case documentations.

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

(b) Role of the Civil Service Commission (CSC) – In appropriate cases, the CSC shall, by regulation, require government establishments, including government-owned and controlled corporations and financial institutions to establish a grievance mechanism to address discriminatory practices in the

workplace and in the provision of services to the public. For this purpose, failure or delay in establishing a grievance mechanism shall be a ground for the imposition of an administrative fine as may be prescribed by the CSC.

(b) *Role of the Department of Labor and Employment (DOLE)* – In appropriate cases, the DOLE shall, by regulation, require private establishments to establish a grievance mechanism to address discriminatory practices committed in the workplace and in the provision of services to the public. For this purpose, failure or delay in establishing a grievance mechanism shall be a ground for the imposition of an administrative fine as may be prescribed by the DOLE.

(d) *Role of the Commission on Human Rights (CHR)* – The CHR shall investigate and recommend the filing of a complaint against any person violating this Act. If the CHR has reasonable cause to believe that any person or group of persons is committing acts penalized in Section 5 of this Act, the CHR shall recommend a legal action in the appropriate prosecutor's office or court.

The CHR shall also direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglects to perform an act or discharge a duty required under this Act, and recommend the revocation of license, removal from office or employment, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith. The refusal or delay in the compliance with the directive of the CHR, without valid cause, to revoke the license, remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault, or who neglects to perform an act or discharge a duty required under this Act, shall be a ground for disciplinary action against said officer.

The CHR shall also document cases of discrimination on the basis of SOGIESC and shall include these documented cases in its annual human rights

report. The Commission shall actively provide recommendations to different branches of government on how to address and eliminate discrimination on the basis of SOGIESC.

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

(a) Social Protection Programs (SPP) - The national government shall ensure that communities vulnerable to stigma and discrimination on the basis of SOGIESC are integrated into government-run social protection programs.

(b) Diversity and Inclusion Programs and Trainings (DIPT) - All government agencies, including government-owned and controlled corporations, local government units (LGUs), private companies, public and private education institutions, and other entities, whether public or private, shall establish diversity and inclusion programs and shall endeavor to provide or conduct trainings for their staff, employees, students and trainees, and constituents on human rights, gender sensitivity and awareness, and sensitization on the issue of violence and abuse to ensure that human rights violations and violence on the basis of SOGIESC are prevented. Such institutions may incorporate these activities into existing gender sensitivity and development training programs or school curricula. Finally, the above-listed agencies, companies and institutions shall create an internal redress mechanism to address cases of discrimination and develop administrative remedies or sanction for such cases.

(c) Information and Education Campaign (IEC) - All government agencies and instrumentalities are mandated to develop and implement SOGIESC-specific gender sensitivity education and information dissemination. They shall endeavor to produce and publish information and education campaign materials on gender and human rights.

SEC. 12. *Empowering Portrayal of Persons of Diverse SOGIESC in Media.* – The positive and empowering portrayal of persons of diverse SOGIESC by media shall be encouraged to counter existing stereotypes and misconceptions that often lead to discriminatory practices. Towards this end, incentives and awards scheme shall be provided to programs that defend the human rights of persons of diverse SOGIESC and contribute to their empowerment, pursuant to Sec. 11 of this Act.

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

The SECOC shall be chaired jointly by the Chair of the Senate Committee on Women, Children, Family Relations and Gender Equality and the House

Committee on Women and Gender Equality. The position of Vice-Chair of the SECOC shall be jointly held by the Chair of the Senate Committee on Justice and Human Rights and the House Committee on Human Rights. The Secretariat of the SECOC shall come from the Secretariat personnel of the Senate and the House of Representatives committees concerned.

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

The SECOC shall cease to exist ten (10) years after its organization.

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

SEC. 15. *Separability Clause*. - If any provision of this Act is declared unconstitutional or otherwise invalid, the validity of the other provisions shall not be affected thereby.

SEC. 16. *Repealing Clause.* - All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 17. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,