

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



Senate
Office of the Secretary

'16 JAN 28 P3:49

SENATE
S. No. 3175

RECEIVED BY: *J.*

Introduced by Senator Miriam Defensor Santiago

AN ACT
PROHIBITING UNLAWFUL EMPLOYMENT PRACTICES RESULTING TO
DISCRIMINATION IN EMPLOYMENT

EXPLANATORY NOTE

Employment discrimination occurs whenever an employer or its representatives adversely single out employees or applicants on the basis of age, race, gender, sexual orientation, disability, religion and a variety of other reasons.

Under the Equal Protection Clause of the Constitution, employers cannot discriminate against a person in any aspect of employment, such as: hiring and firing; compensation; assignment; or classification of employees; transfer; promotion; layoff, or recall; job advertisements; recruitment; testing; use of company facilities; training and apprenticeship programs; fringe benefits; pay; retirement plans; and disability leave.

The Constitution, Article 3, Section 1 provides:

SEC. 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

However, to be considered "illegal", such discrimination must be in violation of a specific law. Otherwise, no protection from discrimination may be had even though how unfair or unethical it may seem.

For example, an employer may be harder on a specific employee from anyone else for no apparent reason. While it might be unethical behavior for a boss, it is not discrimination by law. But if he or she is extra hard on the employee for a reason that is

protected by law, such as religion, age or sex, then such shall constitute illegal discrimination, especially if such employee suffers damage such as getting passed over for a well-deserved raise or promotion.

This measure seeks to prevent certain acts of discrimination to protect employees and advocate the equal protection clause of the Constitution.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
at

¹ This bill was originally filed in the Fourteenth Congress, Third Regular Session and refiled in the Fifteenth Congress, First Regular Session.

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



'16 JAN 28 P3 :49

SENATE
S. No. 3175

RECEIVED BY: *J.*

Introduced by Senator Miriam Defensor Santiago

AN ACT
PROHIBITING UNLAWFUL EMPLOYMENT PRACTICES RESULTING TO
DISCRIMINATION IN EMPLOYMENT

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

1 SECTION 1. *Title.* – This Act shall otherwise be known as the “*Unlawful*
2 *Employment Practice Act.*”

3 SECTION 2. *Definitions.* – The following terms as used in this Act shall mean as
4 follows:

5 a) “Employer” – means any person regularly employing one or more persons or
6 regularly receiving the services of one or more persons providing services pursuant to a
7 contract, or any person acting as an agent of an employer, directly or indirectly, the
8 national government, local government, or any political subdivision; and

9 b) “Harassment” – includes sexual harassment, gender harassment, and harassment
10 based on pregnancy, childbirth, or related medical conditions.

11 SECTION 3. *Prohibited Acts.* – It shall be unlawful for any employer to do any of
12 the following:

13 a) To refuse to hire or employ the person or to refuse to select the person for a
14 training program leading to employment, or to bar or to discharge the person from
15 employment or from a training program leading to employment, or to discriminate
16 against the person in compensation or in terms, conditions, or privileges of employment.

1 because of the race, religious creed, color, national origin, ancestry, physical disability,
2 mental disability, medical condition, marital status, sex, age, or sexual orientation of any
3 person,

4 b) To discriminate against any person in the selection or training of that person in
5 any apprenticeship training program or any other training program leading to
6 employment because of the race, religious creed, color, national origin, ancestry, physical
7 disability, mental disability, medical condition, marital status, sex, age, or sexual
8 orientation of the person discriminated against.

9 c) For any employer or employment agency to print or circulate or cause to be
10 printed or circulated any publication, or to make any non-job-related inquiry of an
11 employee or applicant, either verbal or through use of an application form, that expresses,
12 directly or indirectly, any limitation, specification, or discrimination as to race, religious
13 creed, color, national origin, ancestry, physical disability, mental disability, medical
14 condition, marital status, sex, age, or sexual orientation, or any intent to make any such
15 limitation, specification or discrimination. Nothing in this part prohibits an employer or
16 employment agency from inquiring into the age of an applicant, or from specifying age
17 limitations, where the law compels or provides for that action.

18 d) For any employer, labor organization, employment agency, or person to
19 discharge, expel, or otherwise discriminate against any person because the person has
20 opposed any practices forbidden under this part or because the person has filed a
21 complaint, testified, or assisted in any proceeding under this part.

22 SECTION 4. *Exceptions.* – The following are the exceptions to the provisions of
23 this Act:

24 a) An employer may refuse to hire or may discharge an employee with a medical
25 condition or physical or mental disability, where the employee, because of his or her
26 physical or mental disability, is unable to perform his or her essential duties even with

1 reasonable accommodations, or cannot perform those duties in a manner that would not
2 endanger his or her health or safety or the health or safety of others even with reasonable
3 accommodations.

4 b) An employer or employment agency may inquire into the ability of an applicant
5 to perform job-related functions and may respond to an applicant's request for reasonable
6 accommodation.

7 c) An employer or employment agency may require a medical or psychological
8 examination or make a medical or psychological inquiry of a job applicant after an
9 employment offer has been made but prior to the commencement of employment duties,
10 provided that the examination or inquiry is job-related and consistent with business
11 necessity and that all entering employees in the same job classification are subject to the
12 same examination or inquiry.

13 d) An employer or employment agency may require any medical or psychological
14 examination of an employee, make any medical or psychological inquiry of an employee,
15 make any inquiry whether an employee has a mental disability, physical disability, or
16 medical condition, or make any inquiry regarding the nature or severity of a physical
17 disability, mental disability, or medical condition.

18 e) An employer or employment agency may require any examinations or inquiries
19 that it can show to be job-related and consistent with business necessity. An employer or
20 employment agency may conduct voluntary medical examinations, including voluntary
21 medical histories, which are part of an employee health program available to employees
22 at that worksite.

23 **SECTION 5. Penalties.** – Any person who shall violate any provision of this Act
24 shall upon conviction, be subject to a fine of not less than One hundred thousand pesos
25 (₱100,000.00) but not more than One Million Pesos (₱1,000,000.00) or imprisonment of
26 not less than six (6) years but not more than twelve (12) years, or both upon the discretion

1 of the court.

2 In case the violation is committed by, or in the interest of a juridical person duly
3 licensed to engage in business in the Philippines, such license to engage in business shall
4 also be immediately revoked.

5 SECTION 6. *Separability Clause.* – If any provision or part thereof is held invalid
6 or unconstitutional, the remainder of the law or the provision not otherwise affected shall
7 remain valid and subsisting.

8 SECTION 7. *Repealing Clause.* – Any law, presidential decree or issuance,
9 executive order, letter of instruction, administrative order, rule or regulation contrary to,
10 or inconsistent with the provisions of this Act is hereby repealed, modified or amended
11 accordingly.

12 SECTION 8. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days
13 following its publication in the *Official Gazette* or in two (2) newspapers of general
14 circulation.

Approved.

/ctrdec2015