



SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES

First Regular Session

'16 NOV 24 P2:51

SENATE
S.B. No. 1254

RECEIVED BY: 

Introduced by Senator Poe

AN ACT
TO ELIMINATE ALL FORMS OF SEXUAL HARASSMENT IN WORK PLACES,
EDUCATIONAL INSTITUTIONS, AND PUBLIC PLACES, AND PROVIDING
PENALTIES THEREFOR, REPEALING FOR THE PURPOSE REPUBLIC ACT NO.
7877, OTHERWISE KNOWN AS THE "ANTI-SEXUAL HARASSMENT ACT OF
1995"

Explanatory Note

Article 2, Section 11 of the 1987 Constitution provides that the State shall value the dignity of every human person. The full and free exercise of one's sexual orientation and gender identity or expression (SOGIE) is an inseparable component of one's human dignity and empowerment. To restate the Universal Declaration of Human Rights, all persons, regardless of their sexual orientation and gender identity or expression, are "born free and equal in dignity and rights".

Sexual harassment is undoubtedly a pervasive barrier to the exercise of one's SOGIE. In 2016, a survey by the Social Weather Stations found that three out of five women have experienced sexual harassment in Quezon City alone.¹ Seventy percent of such incidents were committed by total strangers and fifty eight percent were experienced in public streets, roads, and *eskinitas*.²

¹ Bartolome, J. "The numbers are alarming: Sexual harassment vs women in PHL" *GMA News Online* (08 March, 2016). Retrieved from <http://www.gmanetwork.com/news/story/558251/lifestyle/healthandwellness/the-numbers-are-alarming-sexual-harassment-vs-women-in-phl>

² *Id.*

Unfortunately, Republic Act No. 7877, otherwise known as the “*Anti-Sexual Harassment Act of 1995*” does not cover sexual harassment in public places.³ Sexual harassment, as defined in R.A. No. 7877, covers only sexual acts committed at work, school or training area. This limited definition excludes acts of sexual harassment committed in public places.

Furthermore, sexual harassment as defined in R.A. No. 7877 refers only to demands or requests for sexual favours. This narrow definition excludes the common forms of sexual harassment experienced by women, such as wolf whistling, lascivious language, exhibitionism and public masturbation, stalking, voyeurism, groping, rubbing, touching, catcalling, indecent gestures, cyberviolence, and sending or pornographic pictures and violence.⁴

Finally, R.A. No. 7877 only covers persons who have “authority, influence or moral ascendancy in a work or training or education environment” such as employers, employees, managers, supervisors, agents of the employer, teachers, instructors, professors, coaches, and trainers. This narrow definition makes the most common perpetrators of sexual harassment unaccountable for indiscretions. *Sa madaling salita hindi napaparusahan ang mga ordinaryong tao na nanghihipo o nambabastos sa mga pampublikong lugar.*

Due to the limitations stated above, common acts of sexual harassment in public places are not prosecuted under R.A. No. 7877. Instead, they are prosecuted as “Acts of Lasciviousness” or even “Unjust Vexation” under the Revised Penal Code. In most cases, the penalties to be meted out are substantially less than the cost of actually filing a case. This deters victims of sexual harassment from filing charges.

R.A. No. 7877 is also deficient in other ways. For instance, Section 4 of the Act empowers employers or heads of offices to create committees on decorum and investigation of cases on sexual harassment and prescribe procedure and administrative sanctions therefor. However, the Act does not set the standards in implementing this provision. There is no explicit protection for complainants against retaliation, no guarantee of confidentiality, and

³ Philippine Commission on Women. “Strengthening Law Enforcement and Protection Against Sexual Offenses: Expanding the Anti-Sexual Harassment Law” Retrieved from <http://pcw.gov.ph/wpla/strengthening-law-enforcement-and-protection-against-sexual-offenses-expanding-anti-sexual-harassment-law>

⁴ *Op. Cit.*

no observance of due process. In fact, the provision does not even prescribe that the committees shall have women among its members.

This bill proposes to repeal and supersede RA. No. 7877. It proposes the following improvements over the provisions of the existing law:

- 1) A wider definition of sexual harassment, herein defined as “...an unwelcome or unwanted act or series of acts, including those which are committed online or through the use of computers or similar devices such as mobile phones, and tablets, which are lewd or sexually suggestive, and are degrading, offensive or humiliating to one’s dignity or sexual orientation, gender identity or expression, or creates an intimidating, hostile, or offensive environment for the persons affected.”⁵
- 2) A provision which states that the definition of “sexual harassment” shall be liberally construed to protect victims of sexual harassment;
- 3) Clear sufficient standards⁶ for the creation of internal mechanisms to address sexual harassment in the workplace and in educational institutions. If enacted, such internal mechanisms must:
 - a. Adequately represent all stakeholders;
 - b. Be headed by a woman and not less than half of its members should be women;
 - c. Investigate and decide on complaints within ten (10) days or less;
 - d. Observe due process;

⁵ In proposing a new definition of “sexual harassment”, reference was made to the following documents: Civil Service Commission Resolution No. 94-2854, s. 1994; Davao City Ordinance No. 5004 s. 1998; Quezon City Ordinance No. 2501, s. 2016; The Model Law on Sexual Harassment of Johns Hopkins University’s Protection Project; and the Guidelines of the United States’ Equal Employment Opportunity Commission. We would also like to acknowledge the technical assistance of Ms. Pauline A. Carillo.

⁶ John Hopkins University Model Law Sexual Harassment.

- e. Protect complainants from retaliation; *and*
 - f. Guarantee confidentiality to the greatest extent possible.
- 4) Prescribe liability for employers or heads of offices who do not comply with their duties under the proposed measure; *and*
- 5) Mandate Local Government Units (LGUs) to localize anti-sexual harassment efforts in their jurisdiction.

In view of the foregoing, immediate approval of this measure is eagerly sought.

A handwritten signature in black ink that reads "Grace Poe". The signature is written in a cursive style with a long, sweeping underline that extends to the right and loops back under the name.

GRACE POE



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7877, OTHERWISE KNOWN AS THE "ANTI-SEXUAL HARASSMENT ACT OF
1995"

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

ARTICLE I
GENERAL PROVISIONS

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4 **SECTION 1.** *Short Title.*- This Act shall be known as the "*Expanded Anti-Sexual*
5 *Harassment Act of 2016*".
6

7 **SEC. 2.** *Declaration of Policy.*- The State values and protects the dignity of every
8 human person. The State also accords full respect for one's sexual orientation and gender
9 identity or expression and recognizes that the free exercise of such is an inseparable
10 component of human dignity and individual empowerment. The State also recognizes that
11 sexual harassment is an immense barrier to the exercise of one's sexual orientation and
12 gender identity which must be addressed.
13

14 In view of the foregoing, it is hereby declared a policy of the State to eliminate all
15 forms of sexual harassment in the workplace, in educational institutions and in public places.
16 Towards this end, the State shall:
17

- 1 a) Prohibit, prevent, and deter the performance of acts of sexual harassment in work
2 places, educational institutions and public places;
3
4 b) Ensure that all persons shall be safe from sexual harassment in work places,
5 educational institutions and public places;
6
7 c) Mandate persons of authority to ensure that work places, educational institutions
8 and public places are free from all forms of sexual harassment;
9
10 d) Enjoin Local Government Units (LGUs) to ensure that their jurisdictions are free
11 from all forms of sexual harassment; *and*
12
13 e) Ensure that persons of authority in work places, educational institutions and public
14 places fully comply with their duties under this Act.
15

16 **SEC. 3. *Sexual Harassment Defined.***- Sexual harassment refers to an unwelcome or
17 unwanted act or series of acts, including those which are committed online or through the use
18 of computers or similar devices such as mobile phones, and tablets, that are lewd or sexually
19 suggestive, and are degrading, offensive or humiliating to one's dignity or sexual orientation,
20 gender identity or expression, or creates an intimidating, hostile, or offensive environment
21 for the persons affected. Acts considered as sexual harassment shall include:
22

- 23 a) Verbal forms of sexual harassment including but not limited to:
24
25 1. Making remarks, comments, telling of jokes, or asking questions of a lewd or
26 sexually suggestive nature, especially rape jokes;
27
28 2. Making or playing sounds of a lewd or sexually suggestive nature, such as
29 kissing sounds, howling, or lip-smacking;
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31 3. Taunting someone with constant talk about sex or sexual innuendos;
32
33 4. Cursing, whistling, or calling a person with words with lewd or sexual
34 connotations;

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5. Interrogating or informing someone about sexual preferences, fantasies, or activities during interviews for employment, scholarship grant or any lawful activity applied for;
6. Applying pressure on a person to accept a date, despite prior rejection; *or*
7. Other analogous acts.

b) Non-verbal forms of sexual harassment, such as but not limited to:

1. Displaying offensive or lewd pictures and publications to harass another person;
2. Making hand, facial or body gestures of a lewd or sexually suggestive nature;
3. Touching, pinching, groping, fondling, stroking, patting, massaging, kissing, embracing, or brushing up against someone's body in a lewd or sexually suggestive nature;
4. Touching or exposing one's genitalia in public, including public masturbation directed at one or more people;
5. Sending emails, letters, calls, or materials of a lewd or sexually suggestive nature; *or*
6. Other analogous acts.

c) Requests for sexual favours as a condition for the receipt of a benefit such as:

1. Hiring, employment, re-employment, continued employment, or in granting individual favourable conditions, promotions, or privileges;

1 2. Giving of a more favourable grade, the granting of honours, scholarships, or
2 the provision of stipend, allowance or other benefit, privilege or consideration;
3 *or*

4
5 3. When refusal to perform such sexual favour would prevent the affected person
6 from receiving such benefit, or result in limiting, segregating, classifying,
7 discriminating, depriving or otherwise adversely affecting them.

8
9 *Provided,* that the definition and list of acts considered as sexual harassment shall be
10 liberally construed to protect victims of sexual harassment.

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12
13 **ARTICLE II**
14 **SEXUAL HARASSMENT IN THE WORKPLACE**

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16 **SEC. 4. *Scope and Coverage.*** – This Article shall encompass all acts of sexual
17 harassment as defined under Section 3 of this Act committed in the work place. It shall cover
18 all persons in the workplace, including employers, prospective employers, heads of offices,
19 managers, supervisors, agents of the employer, any other person who has authority, influence
20 or moral ascendancy over the affected person, employees, co-workers, and peers. No
21 provision of this Article shall be a bar to existing labour laws and rules and regulations.

22
23 **SEC. 5. *Duties of Employers.*** - Employers or other persons of authority, influence or
24 moral ascendancy in a work place shall have the duty to prevent, deter, or punish the
25 performance of acts of sexual harassment in the work place. Towards this end, the employer
26 or person of authority, influence or moral ascendancy shall:

- 27
28 a) Disseminate or post in a conspicuous place a copy of this Act to all persons in the
29 work place;
- 30
31 b) Provide measures to prevent sexual harassment in the work place, such as the
32 conduct of anti-sexual harassment seminars;
- 33

1 c) Create an independent internal mechanism to investigate and address complaints
2 of sexual harassment which shall:

- 3
- 4 1. Adequately represent the management, the employees from the supervisory
5 rank, the rank and file employees, and the union, if any;
 - 6
 - 7 2. Be headed by a woman and not less than half of its members should be
8 women;
 - 9
 - 10 3. Members should be impartial and not connected or related to the alleged
11 perpetrator;
 - 12
 - 13 4. Investigate and decide on complaints within ten (10) days or less;
 - 14
 - 15 5. Observe due process;
 - 16
 - 17 6. Protect the complainant from retaliation; *and*
 - 18
 - 19 7. Guarantee confidentiality to the greatest extent possible;
 - 20

21 d) Provide and disseminate, in consultation with all persons in the work place, a code
22 of conduct or work place policy which shall:

- 23
- 24 1. Expressly reiterate the prohibition on sexual harassment;
 - 25
 - 26 2. Describe the procedures of the internal mechanism created under Section 5 (c)
27 of this Act; *and*
 - 28
 - 29 3. Set administrative penalties.
 - 30

31 **SEC. 6. Duties of Employees and Co-Workers.** - Employees and co-workers shall
32 have the duty to:

33

- 1 a) Refrain from committing acts of sexual harassment;
2
3 b) Discourage the conduct of sexual harassment in the work place; *and*
4
5 c) Provide emotional or social support to fellow employees, co-workers, colleagues
6 or peers who are victims of sexual harassment;
7

8 **SEC. 7. *Liability of Employers.*** - In addition to liabilities for committing acts of
9 sexual harassment, employers may also be held responsible for:
10

- 11 a) Non-implementation of their duties under Section 5 of this Act, as provided in the
12 penal provisions below; *or*
13
14 b) Not taking action on reported acts of sexual harassment committed in the work
15 place;
16

17 **SEC. 8. *Routine Inspection.***- The Department of Labor and Employment (DOLE) for
18 the private sector and the Civil Service Commission (CSC) for the public sector shall conduct
19 yearly spontaneous inspections to ensure compliance of employers and employees with their
20 obligations under this Act.
21

22
23 **ARTICLE III**
24 **SEXUAL HARASSMENT IN EDUCATIONAL OR TRAINING**
25 **INSTITUTIONS**
26

27 **SEC. 9. *Scope and Coverage.***- This Article shall encompass all acts of sexual
28 harassment as defined under Section 3 of this Act when committed in public and private
29 educational facilities, including schools, universities and technical-vocational institutions. It
30 shall cover principals, school heads, teachers, instructors, professors, coaches, trainers, or any
31 other person who has authority, influence or moral ascendancy over another in an educational
32 or training institution, as well as students. No provision of this Article shall be a bar to
33 existing laws and rules and regulations on education.
34

1 **SEC. 10. Duties of School Heads.** - School heads shall have the following duties:
2

3 a) Disseminate or post in a conspicuous place a copy of this Act to all persons in the
4 educational institution;

5
6 b) Provide measures to prevent sexual harassment in educational institutions, such as
7 information campaigns;

8
9 c) Create an independent internal mechanism to investigate and address complaints
10 of sexual harassment which shall:

11
12 1. Adequately represent the school administration, the trainers, instructors,
13 professors or coaches and students or trainees, students and parents, as the
14 case may be;

15
16 2. Be headed by a woman and not less than half of its members should be
17 women;

18
19 3. Members should be impartial and not connected or related to the alleged
20 perpetrator;

21
22 4. Investigate and decide on complaints within ten (10) days or less;

23
24 5. Observe due process;

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26 6. Protect the complainant from retaliation; *and*

27
28 7. Guarantee confidentiality to the greatest extent possible.

29
30 d) Provide and disseminate, in consultation with all persons in the educational
31 institution, a code of conduct or school policy which shall:

32
33 1. Expressly reiterate the prohibition on sexual harassment;

1 public place. For the purposes of this section, "Public place" shall refer to a place exposed to
2 the public and where the public gathers together or passes.

3
4 **SEC. 15. Duties of Local Government Units.** - Local Government Units (LGUs) shall
5 bear primary responsibility in enforcing the provisions under Article IV of this Act. LGUs
6 shall:

- 7
- 8 a) Pass an ordinance which shall localize the applicability of this Act within sixty
9 (60) days of its effectivity;
 - 10
 - 11 b) Disseminate or post in conspicuous places a copy of this Act and the
12 corresponding ordinance;
 - 13
 - 14 c) Provide measures to prevent sexual harassment in educational institutions, such as
15 information campaigns and anti-sexual harassment seminars;
 - 16
 - 17 d) Discourage and impose fines on acts of sexual harassment as defined in this Act;
 - 18
 - 19 e) Coordinate with the Department of Interior and Local Government (DILG) on the
20 implementation of this Act;
 - 21

22 **SEC. 16. Role of the DILG.**- The DILG shall ensure the full implementation of this
23 Act by:

- 24
- 25 a) Inspecting LGUs if they have disseminated or posted in conspicuous places a copy
26 of this Act and the corresponding ordinance;
 - 27
 - 28 b) Conducting and disseminating surveys and studies on best practices of LGUs in
29 implementing this Act; *and*
 - 30
 - 31 c) Providing capacity-building and training activities to build the capability of local
32 government officials to implement this Act in coordination with the Philippine
33 Commission on Women (PCW), the Local Government Academy (LGA) and the
34 Development Academy of the Philippines.

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ARTICLE V
FINAL PROVISIONS

SEC. 17. Training.- The PCW shall provide free training to persons who are members of the internal mechanisms created under Articles II and III of this Act. The PCW shall also provide such trainings to public officials, in coordination with the LGA and the DAP.

SEC. 18. Survey. - The Philippine Statistics Authority (PSA) shall conduct every three years a National Survey on Experiences of Sexual Harassment to provide accurate and timely information on the incidence of sexual harassment in the country.

SEC. 19. Administrative sanctions not a bar to prosecution. - Administrative sanctions meted out under Articles II, III and IV of this Act shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment and other related offenses.

SEC. 20. Liability Under Other Laws. - A prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Revised Penal Code, as amended, or special laws.

SEC. 21. Penalties. - The corresponding penalties shall be imposed upon:

- a) Any employer or school head who fails to comply with their duties under Article II (5) or Article III (11) of this Act shall, upon conviction, suffer the penalty of imprisonment of not less than six (6) months or not more than (1) year, or a fine of not less than Ten Thousand Pesos (Php 10,000) or not more than Twenty Thousand Pesos (Php 20,000), or both, without prejudice to any liability for violation of any provision of the Revised Penal Code, as amended, or special laws;
- b) Any employer, school head, or member of an investigating team established pursuant to Article II, Section 5 or Article III, Section 10 of this Act, who fails to

1 act upon reported incidents of sexual harassment in the work place or in an
2 educational institution shall, upon conviction, suffer the penalty of imprisonment
3 of not less than one (1) year or not more than three (3) years, or a fine of not less
4 than Thirty Thousand Pesos (Php 30,000) or not more than Forty Thousand Pesos
5 (Php 40,000), or both, without prejudice to any liability for violation of any
6 provision of the Revised Penal Code, as amended, or special laws;
7

8 c) Any person who performs an act of sexual harassment classified as a verbal
9 offense under Section 3 (a) of this Act shall, upon conviction, suffer the penalty
10 of imprisonment of not less than three (3) years or not more than five (5) years, or
11 a fine of not less than Fifty Thousand Pesos (Php 50,000) or not more Sixty
12 Thousand Pesos (Php 60,000), or both, without prejudice to any liability for
13 violation of any provision of the Revised Penal Code, as amended, or special
14 laws;
15

16 d) Any person who performs an act of sexual harassment classified as a non-verbal
17 offense under Section 3 (b) of this Act shall, upon conviction, suffer the penalty of
18 imprisonment of not less than five (5) years or not more than seven (7) years, or a
19 fine of not less than Seventy Thousand Pesos (Php 70,000) or not more than
20 Eighty Thousand Pesos (Php 80,000), or both, without prejudice to any liability
21 for violation of any provision of the Revised Penal Code, as amended, or special
22 laws;
23

24 e) Any person who performs an act of sexual harassment classified under Section 3
25 (c) of this Act shall, upon conviction, suffer the penalty of imprisonment of not
26 less than nine (9) years or not more than ten (10) years, or a fine of not less than
27 Ninety Thousand Pesos (Php 90,000) or not more than One Hundred Thousand
28 Pesos (Php 100,000), or both, without prejudice to any liability for violation of
29 any provision of the Revised Penal Code, as amended, or special laws.
30

31 **SEC. 22. Appropriations.-** Such amounts as may be necessary for the
32 implementation of this Act shall be indicated under the annual General Appropriations Act.
33 National and local government agencies shall be authorized to utilize their mandatory Gender

1 and Development (GAD) budget, as provided under Republic Act No. 9710, otherwise
2 known as the "*Magna Carta of Women*" for this purpose. In addition, LGUs may also use
3 their mandatory twenty (20%) allocation of their annual internal revenue allotments for Local
4 Development Projects as provided under Section 287 of the Republic Act 7610, otherwise
5 known as the "*Local Government Code of 1991*".

6
7 **SEC. 23. *Implementing Rules and Regulations.***- the DOLE, CSC, DEPED, CHED,
8 DILG, PCW, LGA and DAP shall promulgate the necessary rules and regulations for the
9 effective implementation of the provisions of this Act within ninety (90) days of its
10 effectivity.

11
12 **SEC. 24. *Repealing Clause.***- Republic Act No. 7877, otherwise known as *the "Anti-*
13 *Sexual Harassment Act of 1995"*, is hereby repealed. Likewise, all decrees, laws, executive
14 orders, proclamations and administrative regulations or parts thereof inconsistent with the
15 provisions of this Act are hereby repealed, amended or modified accordingly.

16
17 **SEC. 25. *Separability Clause.***- If any provision or part of this Act is declared
18 unconstitutional, the remaining parts or provisions not affected shall remain in full force and
19 effect.

20
21 **SEC. 26. *Effectivity.*** - This Act shall take effect fifteen (15) days after its complete
22 publication in the Official Gazette or in a newspaper of general circulation.

Approved,