

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

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SENATE
S.B. No. 1553

RECEIVED BY: _____

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The 1987 Constitution, Article II, Section 14, provides for the fundamental equality of the sexes, thus: "The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of men and women."

Discrimination by reason of sex is usually effected by subtle and elusive means especially in employment advertising. This discrimination is widespread and done publicly, notwithstanding the above constitutional mandate.

The main objective of this bill is to institutionalize the protection given to both sexes by eliminating gender discrimination in employment advertising and by providing penalties for violations thereof.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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AN ACT
TO PROHIBIT GENDER DISCRIMINATION IN EMPLOYMENT ADVERTISING

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

SECTION 1. *Short Title.* — This Act shall be known as the “Anti-Gender Discrimination in Employment Advertising Act.”

SECTION 2. *Declaration of Policy.* — It is the policy of the State to ensure the equality of men and women by prohibiting gender discrimination in job opportunities advertising.

SECTION 3. *Definition of Terms.* — For the purposes of this Act, the term:

(a) “Employer” includes any person acting in the interest of an employer, either directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as an employer.

(b) “Labor Organization” means any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employees, concerning terms and conditions of employment.

(c) “Private Employment Agency” means any person or entity engaged in the recruitment and placement of workers for a fee which is charged, directly or indirectly, from the workers or employers or both.

(d) “Recruitment and placement” refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and other similar acts, and includes referrals, locally or abroad, whether for profit or not: *Provided*, that any person or entity which, in any

manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

SECTION 4. *Prohibited Acts.* — (1) It shall be unlawful discriminatory practice for any employer, whether for profit or not, any labor organization or any private employment agency to print, circulate or publish or cause to be printed, circulated or published any statement, circulation or publication relating to employment by such an employer or membership in or any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on sex, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on sex when sex is a bona fide occupational qualification for employment.

(2) It shall be unlawful discriminatory practice for any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this section or to attempt to do so.

SECTION 5. *Certification of Exemption.* — The Department of Labor and Employment shall have the power and it shall be its duty to certify upon request of any person that a particular occupation or position is exempt from the provisions of this Act relating to unlawful employment practices if the Department of Labor and Employment finds that the occupation or position reasonably requires the employment of a person or persons of a particular sex and that such certification is not sought as a means of circumventing the spirit and purpose of this Act. The burden of proving the facts required for such a finding shall be on the person requesting the certification of exemption from the provisions of this Act.

SECTION 6. *Placement of Discriminatory Advertisement.* — The placement of an advertisement in columns classified by publishers on the basis of sex, such columns headed "Male" or "Female" will be considered an expression of preference, limitation, specification or discrimination based on sex provided that the advertisement shall contain a sufficient notice that it is covered by the exemption to be determined by the Department of Labor and Employment as provided in Section 5 hereof.

SECTION 7. *Prevention of Unlawful Employment Practices.* — Whenever there is a charge in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by the Department of Labor and Employment or its authorized representative where there is a reasonable cause to believe that a violation of this Act has occurred that an employer, private employment agency or labor organization has engaged in an unlawful employment practice, the Department of Labor and Employment shall furnish such employer, private employment agency or labor organization with a copy of such charge and make an investigation of such charge, provided that such charge shall not be made public by the Department of Labor and Employment. If the Department of Labor and Employment shall determine after such investigation, that there is a reasonable cause to believe that the charge is true, the Department of Labor and Employment shall endeavor to eliminate any such alleged unlawful employment practice.

SECTION 8. *Regulations.* — The Department of Labor and Employment shall promulgate rules and regulations to implement the provisions of this Act.

SECTION 9. *Scope.* — The provisions of this Act shall apply only to employment advertising by private employer, labor organization, private employment agency and other private entities.

SECTION 10. *Penalties.* — Any violation of this Act shall be punished with a fine of not less than ten thousand pesos (P10, 000.00) or imprisonment of not less than three (3) months or both, at the discretion of the court. If the offense is committed by a corporation, trust, firm, partnership or association or other such entity, the penalty shall be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership, association or entity.

SECTION 11. *Separability Clause.* — If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 12. *Repealing Clause.* — Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 13. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.

FN: 289