

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

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SENATE
S.B. No. 1641

RECEIVED BY: _____

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The equal protection clause in the Bill of Rights prescribes discrimination on the basis of sexual orientation or any other status in the enjoyment of rights. The equal protection clause, according to an eminent constitutionalist, "is the specific constitutional guarantee of the equality of the person." (J. Bernas, S.J., *Constitutional Rights and Social Demands: Notes and Cases*, Vol. II [1991], p. 48) This clause requires that "laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed." (J.M. Tuason and Co. vs. The Land Tenure Administration, 31 SCRA 413).

The fundamental law also declares that the State values the dignity of every human person and guarantees full respect for human rights (1987 Constitution, Article 2, Section 3). 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 sex, sexual orientation or any other condition.

Unfortunately, reality still has to catch up with the noble intentions of these numerous laws. Lesbians and gays continue to be oppressed by iniquitous treatment of society at large, primarily because of misconceptions and ignorance.

Hence, this bill seeks to prohibit discrimination on the basis of sexual orientation.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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AN ACT
PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND
PROVIDING PENALTIES THEREFORE

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

SECTION 1. *Title.* – This Act shall be known and cited as the “Anti-Discrimination Act.”

SECTION 2. *Declaration of policy.* – It is the policy of the State to work actively for the elimination of all forms of discrimination that offends the equal protection clause of the Bill of Rights and the State obligations under human rights instruments acceded to by the Republic of the Philippines, particularly those discriminatory practices as defined herein shall be prescribed and penalized.

SECTION 3. *Sexual Orientation, Defined.* – For the purposes of this Act, sexual orientation refers to the choice of or the focus given by a person to another as the object of affection and/ or sexual energies, such other person not necessarily belonging to the opposite sex, as in the case of homosexuals.

SECTION 4. *Discrimination Practices.* – It shall be unlawful for any person, group, institution or establishment to:

(1) Deny access to public service, including military service, to any person on the basis of sexual orientation;

(2) Include sexual orientation in the criteria for hiring, promotion and dismissal of workers, as well as in the determination of employee compensation, training, incentives, privileges, benefits or allowances, and other terms and conditions of employment;

(3) Refuse admission of a person to educational institutions on the basis solely of the applicant's sexual orientation, without prejudice to the right of educational institutions to determine the qualifications of their students;

(4) Deny a person access to medical and other health services open to the general public on the basis of such person's sexual orientation;

(5) Deny an application for a professional license issued by the government due to the applicant's sexual orientation;

(6) Deny a person access to or the use of establishments, facilities, utilities or services open to the general public on the basis of his or her sexual orientation; for this purpose, there is a denial when a person is given inferior accommodation or services;

(7) Deny an application for a license, clearance, certification or any other document issued by governmental authorities on the basis of the applicant's sexual orientation; and

(8) Other practices similar to the foregoing.

SECTION 5. *Penalties.* – (1) Persons found guilty of any of the discriminatory practices enumerated in the preceding Section shall be penalized with a fine of not less than Ten Thousand Pesos (P10,000.00) or imprisonment of not less than one (1) month but not more than one (1) year, or both at the discretion of the court.

(2) The penalty contained herein is without prejudice to the award of damages to the aggrieved party, as may be proven during the trial. The institution of a criminal action shall impliedly include the civil action, unless a separate civil action has been filed or a reservation for the filing of such action is made.

(3) The official directly involved shall be liable for violations committed by corporations, organizations, or similar entities.

SECTION 6. *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 7. *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 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.