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(In substitution of Senate Bill Nos. 159, 412 and 689)

Prepared by the Committee on Women, Children, Family Relations and Gender Equality with Senators Hontiveros, De Lima, Marcos and Pangilinan as authors thereof

**AN ACT
PROHIBITING DISCRIMINATION, MARGINALIZATION, AND VIOLENCE
COMMITTED ON THE BASIS OF SEXUAL ORIENTATION, GENDER
IDENTITY, GENDER EXPRESSION AND SEX CHARACTERISTICS AND
PROVIDING SANCTIONS THEREFOR**

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

- 1 SECTION 1. *Short Title.* – This Act shall be known and cited as the "SOGIESC-
2 based Anti-Discrimination Act."
- 3 SEC. 2. *Declaration of Policy.* – The State values the dignity of every
4 individual, and guarantees full respect for human rights. It promotes human dignity
5 as enshrined in the United Nations Universal Declaration on Human Rights, the
6 Convention on the Elimination of All Forms of Discrimination Against Women,
7 Convention on the Rights of the Child, International Covenant on Civil and Political
8 Rights, International Covenant on Economic, Social and Cultural Rights and all other
9 relevant and universally accepted human rights instruments, international
10 conventions and general principles of law, as well as the Yogyakarta Principles and
11 General Recommendation No. 28 on Non-discrimination Based on Sexual Orientation
12 and Gender Identity;
- 13 In enforcement of this Act, the right to religious freedom in the performance
14 of religious services which exclusively cater to the members of their religious order

1 shall be protected. All due respect shall be accorded to the fundamental right of
2 parents in the upbringing of their minor children in accordance with their religious
3 convictions or moral beliefs. However, in case of violation of the rights of the child,
4 the doctrine of *parens patriae* shall apply. In all matters, the best interest and
5 evolving capacities of the child shall be paramount.

6 Towards this end, the State shall exert efforts to address all forms of
7 discrimination, marginalization and violence on the basis of sexual orientation,
8 gender identity, gender expression and sex characteristics.

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

11 a. **Discrimination** - refers to any distinction, exclusion, restriction, or
12 preference based on the grounds of one's SOGIESC, and has the purpose or effect
13 of, directly or indirectly, nullifying or impairing the recognition, access to, enjoyment,
14 or exercise by all persons on an equal footing of all rights and freedoms. For
15 purposes of this provision, the actual SOGIESC of the person subjected to
16 discrimination shall not be relevant for the purpose of determining whether an act of
17 discrimination has been committed. Discrimination may be committed on the basis of
18 one's perceived SOGIESC or on the basis of association with or being allied with or
19 advocating for persons of diverse SOGIESC.

20 **Direct discrimination** occurs when a person is treated less favorably than
21 another person in the same or comparable circumstances on the ground of their
22 SOGIESC. **Indirect discrimination** occurs where an apparently neutral condition or
23 requirement is imposed which has the effect of unreasonably disadvantaging a
24 person of diverse SOGIESC.

25 b. **Gender Expression (GE)** - refers to each person's presentation of the
26 person's gender through physical appearance – including dress, hairstyles,
27 accessories, cosmetics – and mannerisms, speech, behavioral patterns, names and
28 personal references, and noting further that gender expression may or may not
29 conform to a person's gender identity;

30 c. **Gender Identity (GI)** - refers to each person's deeply felt internal and
31 individual experience of gender, which may or may not correspond with the sex
32 assigned at birth, including the personal sense of the body (which may involve, if

1 freely chosen, modification of bodily appearance or function by medical, surgical or
2 other means) and other expressions of gender, including dress, speech and
3 mannerisms; A person may have a male or female identity with the physiological
4 characteristics of the opposite sex, in which case this person is considered
5 transgender;

6 d. Harassment - refers to unwanted act or series of acts which tend to
7 annoy, insult, bully, demean, offend, threaten, intimidate, alarm, or any other
8 conduct with creates a hostile or emotionally distressing environment, or put one in
9 fear of their safety; such act may also include physical assault, stalking, or making
10 derogatory comments, sexist, homophobic or transphobic slurs or lewd propositions;

11 e. Marginalization - refers to a condition where a whole category of
12 people is excluded from useful and meaningful participation in political, economic,
13 social, and cultural life;

14 f. Persons of Diverse SOGIESC - refers to the collective of persons who
15 are male and female homosexuals or "gays" and "lesbians", respectively; including
16 persons who are attracted to people of more than one gender or "bisexuals";
17 persons whose gender identity do not align with their sex or gender assigned at
18 birth or "transgender" persons; or persons whose primary and/or secondary sex
19 characteristics, or their combination of chromosomes, external genitalia, gonads,
20 hormones, and/or internal reproductive organs, differ from the two expected
21 patterns of "female" and "male" and cannot be easily categorized as either of them
22 or "intersex" persons; persons whose sexual orientation, gender identity, or gender
23 expression does not conform to cisgender-heterosexual norms or "queer"; persons
24 whose gender do not fall within the gender binary of female and male or "non-
25 binary"; or persons whose gender expression do not align with their gender identity
26 or "gender non-conforming" persons, among others;

27 g. Profiling - refers to subjecting a person or group of persons to
28 investigatory activities, which include unnecessary, unjustified, illegal, and degrading
29 searches, seizures, detention, questioning, inclusion in a list or other acts committed
30 for the purpose of determining whether an individual or a group is engaged in an
31 activity presumed to be unlawful, immoral or socially unacceptable;

1 h. Sex Characteristics (SC) - refers to a person's physical traits that
2 indicate their biological sex, such as chromosomes, external genitalia, gonads,
3 hormones, and internal reproductive organs. Traits present at birth are called
4 primary sex characteristics, whereas those that develop during puberty are called
5 secondary sex characteristics. A person's sex characteristics can be male, female, or
6 intersex;

7 i. Sexual Orientation (SO) - refers to each person's capacity for profound
8 emotional, affectional and sexual attraction to, and intimate and sexual relations
9 with, individuals of a different gender (heterosexual) or the same gender
10 (homosexual) or more than one gender (bisexual) or the absence thereof (asexual);

11 j. Stigma - refers to the dynamic devaluation and dehumanization of an
12 individual in the eyes of others which may be based on attributes that are arbitrarily
13 defined by others as discreditable or unworthy and which result in discrimination
14 when acted upon;

15 SEC. 4. *Communities Vulnerable to Discrimination and Abuse on the Basis of*
16 *SOGIESC.* – This Act seeks to protect individuals and communities that are at a
17 greater risk of experiencing human rights violations on the basis of SOGIESC.
18 SOGIESC are each distinct and intersectional grounds of discrimination, and that
19 they may be, and commonly are, compounded by discrimination on other grounds
20 including race, ethnicity, indigeneity, sex, gender, language, religion, belief, political
21 or other opinion, nationality, national or social origin, economic and social situation,
22 birth, age, disability, health (including HIV status), migration, marital or family
23 status, being a human rights defender or other status. For this purpose,
24 discrimination on the grounds of a person's SOGIESC intersecting or compounded by
25 other grounds shall be considered.

26 SEC. 5. *Prohibited Acts.* – It shall be unlawful for any person, natural or
27 juridical, to engage in discrimination, marginalization, and violence as defined in this
28 Act, which shall include:

29 a. Promoting and encouraging stigma on the basis of SOGIESC in the media,
30 in educational textbooks, and other medium. Inciting violence and sexual abuse
31 against any person or group on the basis of SOGIESC is likewise prohibited;

1 b. Including SOGIESC, as well as the disclosure thereof, in the criteria for
2 hiring, promotion, transfer, designation, work assignment, reassignment, dismissal
3 of workers, and other human resource movement and action, performance review,
4 and in the determination of employee compensation, access to career development
5 opportunities, training, and other learning and development interventions,
6 incentives, privileges, benefits or allowances, and other terms and conditions of
7 employment: Provided That, this provision shall apply to employment and skills
8 training in both the private and public sectors, including military, police, and other
9 similar services: Provided Further That, this prohibition shall likewise apply to the
10 contracting and engaging of the services of organizations or associations composed
11 of or advocating for persons of diverse SOGIESC;

12 c. Refusing admission or expelling a person from any educational or training
13 institution on the basis of SOGIESC, including discriminating against a student or
14 trainee due to the SOGIESC of the student's parents or guardian, court-appointed or
15 otherwise; Provided That, the academic freedom of educational and training
16 institutions to determine the academic qualifications of their students or trainees
17 shall be duly upheld;

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

23 e. Refusing or revoking the accreditation, formal recognition, registration or
24 plan to organize of any organization, association, group, political party, institution, or
25 establishment in educational institutions, workplaces, communities, and other
26 settings, solely on the basis of the SOGIESC of their members or of their target
27 constituencies;

28 f. Denying a person access to public or private medical and other health
29 services open to the general public on the basis of such person's SOGIESC;

30 g. Denying an application for or revoking a professional or other similar kind
31 of license, clearance, certification, or any other similar document, issued by the
32 government due to the applicant's SOGIESC;

1 h. Denying a person access to or the use of, public or private, establishments,
2 facilities, utilities or services, including housing, open to the general public on the
3 basis of SOGIESC: Provided That, the act of giving inferior accommodations or
4 services shall be considered a denial of access or use of such facility or service:
5 Provided That, all facilities, including bathrooms, should be gender-inclusive.
6 Provided Further That, this prohibition covers acts of discrimination against juridical
7 persons, organizations, or associations solely on the basis of SOGIESC of their
8 members or of their target constituencies;

9 i. Subjecting or forcing any person to undertake any medical or psychological
10 examination to determine or alter, or both, the person's SOGIESC without the
11 express approval of the person involved, except in cases where the person involved
12 is a minor in which case prior approval of the appropriate Family Court shall be
13 required. In the latter case, the child shall be represented in the proceedings by the
14 Solicitor General or the latter's authorized representative;

15 j. Harassment, profiling, coercion, or threats committed on the basis of one's
16 SOGIESC by those involved in the enforcement of law, regulations or directives,
17 including immigration officers, and those involved in the protection of rights of any
18 person, whether they belong to the public or private sector. Among other cases,
19 prohibited acts under this section include arresting or placing under custody, and
20 subjecting a person to extortion, physical, verbal, or sexual abuse, regardless of
21 whether such arrest has legal or factual basis. Harassment, profiling, coercion, or
22 threat of juridical persons, organizations, or associations on the basis of the
23 SOGIESC of their members, stockholders, benefactors, clients, or patrons is likewise
24 covered by this provision;

25 k. Publishing information intended to "out" or reveal the sex or SOGIESC of
26 persons without their consent, whether or not done in good faith, when such has not
27 been made known by the person concerned;

28 l. Preventing a child under parental authority, custody, or guardianship,
29 whether court appointed or otherwise, from exhibiting or expressing one's SOGIESC;
30 or manifesting rejection of such child's SOGIESC by inflicting or threatening to inflict
31 bodily or physical harm against the child or by causing mental or emotional suffering
32 of the child through intimidation, harassment, public ridicule or humiliation, verbal

1 abuse, or other similar means, or in general, commit any act or omission prejudicial
2 to the welfare and interest of the child;

3 m. Subject a person to any other analogous acts that shall have the effect or
4 purpose of impairing or nullifying the enjoyment, recognition, and exercise of a
5 person's human rights and fundamental freedoms.

6 SEC. 6. *Sanctions.* – A person who violates any provision of this Act shall be
7 sanctioned by a fine of not less than Five Hundred Thousand Pesos (P500,000.00)
8 but not more than One Million Pesos (P1,000,000.00) at the discretion of the court.
9 In addition, the court may impose upon a person, natural or juridical, found to have
10 committed any of the prohibited acts the rendition of community service in terms of
11 attendance in human rights and SOGIESC education, or the establishment,
12 development, and promotion of programs for the benefit and welfare of persons
13 with diverse SOGIESC.

14 Refusal of a government official or employee or those involved in the
15 enforcement of law whose duty it is to implement any part of this act or to
16 investigate, prosecute, or comply with the directive, resolution, or recommendation
17 of the Commission on Human Rights, or otherwise act on a complaint for a violation
18 of this Act or causing unreasonable delay to perform such a duty without a valid
19 ground shall constitute gross negligence and shall be subject to pertinent
20 administrative sanctions under civil service laws, rules, and regulations.

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

24 SEC. 7. *Special Aggravating Circumstance.* – If any crime or offense, not
25 falling under this Act, is committed with hate, bias, or prejudice based on the
26 victim's actual or perceived SOGIESC, the same shall be aggravated and the
27 corresponding penalty provided thereto shall be applied in its maximum period.

28 SEC. 8. *Redress Mechanisms for SOGIESC-related Cases.* –

29 a. Inclusion of SOGIESC Concerns in All Police Stations. - The Women and
30 Children's Desks now existing in all police stations shall also act on and attend to
31 complaints or cases covered by this Act. In this regard, police officers shall undergo
32 trainings on human rights and SOGIESC, gender sensitivity and awareness, and the

1 use of the human rights approach in the handling, investigation, and documentation
2 of cases filed by persons of diverse SOGIESC.

3 Complainant-minors may be represented by parents, guardians, social
4 workers, or a non-government organization of good standing and reputation.

5 b. Role of the Civil Service Commission - The Civil Service Commission (CSC)
6 shall mandate the establishment of a grievance mechanism to address discriminatory
7 practices committed by officers or employees of government agencies,
8 instrumentalities, and government-owned and controlled corporations (GOCCs) and
9 other offices under its jurisdiction.

10 c. Role of the Department of Labor and Employment - The Department of
11 Labor and Employment (DOLE) shall mandate the establishment of a grievance
12 mechanism to address discriminatory practices committed in the workplace.

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

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

28 The CHR shall also document cases of discrimination on the basis of SOGIESC
29 and shall include these documented cases in its annual human rights report. It shall
30 actively provide recommendations to different branches of government on how to
31 address and eliminate discrimination on the basis of SOGIESC.

1 SEC. 9. *Programs to Promote Non-Discrimination and Diversity.* – To eliminate
2 all forms of discrimination, the State shall pursue initiatives and programs that seek
3 to enable an environment free of stigma and discrimination. It shall direct the
4 machinery and resources of the State to promote non-discrimination and shall
5 encourage other sectors of the society to engage and participate in these efforts. It
6 shall ensure the implementation of the following programs:

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

10 b. Diversity and Inclusion Programs and Policies - All government agencies,
11 government owned and controlled corporations, private companies, public and
12 private educational institutions, and other entities, whether public or private, shall
13 establish diversity and inclusion programs to ensure discrimination, marginalization,
14 and violence on the basis of SOGIESC are prevented. They shall also create an
15 internal redress mechanism to address cases of discrimination and develop
16 administrative remedies or sanctions for such cases. These institutions shall
17 incorporate these programs into existing gender and development programs or
18 curricula.

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

24 SEC. 10. *Congressional Oversight Committee.* – For the effective
25 implementation of this Act, there shall be created a Congressional Oversight
26 Committee, hereinafter referred to as the Anti-Discrimination Oversight Committee
27 (ADOC), within sixty (60) days after the enactment of this Act. The ADOC shall be
28 composed of ten (10) members from the Senate and the House of Representatives,
29 which shall include the following: the Chairperson and two (2) members of the
30 Senate Committee on Women, Children, Family Relations, and Gender Equality: the
31 Chairperson and one (1) member of the Senate Committee on Justice and Human
32 Rights; the Chairperson and two (2) members of the House Committee on Women

1 and Gender Equality; and the Chairperson and one (1) member of the House
2 Committee on Justice. The members of the ADOC shall be appointed by the Senate
3 President and the Speaker of the House, respectively, with at least one (1) member
4 representing the Minority.

5 The ADOC shall be jointly chaired by the Chairpersons of the Senate
6 Committee on Women, Children, Family Relations and Gender Equality and the
7 House Committee on Women and Gender Equality. The Vice-Chair of the ADOC shall
8 be jointly held by the Chairpersons of the Senate Committee on Justice and Human
9 Rights and the House Committee on Justice. The Secretariat shall come from the
10 existing Secretariat personnel of the Senate and the House of Representatives
11 committees concerned. The ADOC shall monitor the compliance of public institutions
12 to the provisions of this Act. Within three (3) years after the enactment of this Act,
13 the ADOC shall conduct an audit of national and local policies that discriminate on
14 the basis of SOGIESC, and shall submit a report to Congress, the Office of the
15 President, and the Supreme Court, on this subject.

16 SEC. 11. *Separability Clause.* – If any provision of this Act is declared
17 unconstitutional or otherwise invalid, the validity of the other provisions shall not be
18 affected thereby.

19 SEC. 12. *Repealing Clause.* – All laws, decrees, orders, rules and regulations
20 or parts thereof inconsistent with this Act are hereby repealed or modified
21 accordingly.

22 SEC. 13. *Effectivity.* – This Act shall take effect fifteen (15) days after its
23 publication in the Official Gazette or in a newspaper of general circulation.

24 *Approved,*