

NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )



'22 JUL 12 P 6:13

**SENATE**  
**S. No. 442**

RECEIVED BY: 

---

Introduced by Senator MARK A. VILLAR

---

**AN ACT**  
**PENALIZING DISCRIMINATORY ACTIONS BASED ON GENDER IDENTITY**  
**OR EXPRESSION AND SEXUAL ORIENTATION**

EXPLANATORY NOTE

The Constitution provides that "The State values the dignity of every human person"<sup>1</sup>. Further, our Constitution's Preamble mentions freedom, love, and equality.

This bill aims to penalize various discriminatory actions rooted on gender identity or expression and sexual orientation.

This measure can be a step towards protecting members of the LGBT community from unjust and unequal treatment, and a step moving forward towards a more inclusive society.

In view of the foregoing, the passage of this bill is earnestly sought.



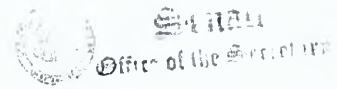
**MARK A. VILLAR**  
Senator

---

<sup>1</sup> ARTICLE II, SEC. 11., 1987 CONSTITUTION.

NINETEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
*First Regular Session*

)  
)  
)



'22 JUL 12 P 6:13

SENATE  
S. No. 442

RECEIVED BY: \_\_\_\_\_

---

Introduced by Senator MARK A. VILLAR

---

**AN ACT**  
**PENALIZING DISCRIMINATORY ACTIONS BASED ON GENDER IDENTITY OR**  
**EXPRESSION AND SEXUAL ORIENTATION**

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

1           Section 1. *Declaration of Policy.* – The State recognizes the fundamental right of  
2 every person regardless of sex, age, class, status, ethnicity, color, disability, religious,  
3 and political beliefs, sexual orientation, or gender identity or expression, to be free  
4 from any form of discrimination.

5           Sec. 2. *Definition of Terms.* –

6           a) *Discrimination* refers to any distinction, exclusion, restriction, or  
7 preference which is based on any ground such as sex, sexual orientation,  
8 gender identity or expression, and which has the purpose or effect of  
9 nullifying or impairing the recognition, access to, enjoyment, or exercise  
10 by all persons on an equal footing of all rights and freedoms;

11           b) *Gender Expression* refers to the way a person communicates gender  
12 identity to others through behavior, clothing, hairstyles, communication  
13 or speech pattern, or body characteristics;

14           c) *Gender Identity* refers to the personal sense of identity as characterized,  
15 among others, by manner of clothing, inclinations, and behavior in  
16 relation to masculine or feminine conventions;

17           d) *Hate Crimes* refer to criminal offenses committed against a person or a

1 group of persons, or against such targeted person's or group's honor or  
2 property, motivated in whole or in part by the offender's bias against  
3 gender, sexual orientation, gender identity or expression;

4 e) *LGBT Community* refers to the collective of persons who are male and  
5 female homosexuals (gays and lesbians, respectively), bisexual, and  
6 transgender;

7 f) *Marginalization* refers to a condition where a whole category of people is  
8 excluded from useful and meaningful participation;

9 g) *Sex* refers to male, female, or intersex.

10 h) *Sexual Orientation* refers to the direction of emotional, sexual attraction,  
11 or conduct towards people of the same sex (homosexual orientation) or  
12 towards people of both sexes (bisexual orientation), or towards people  
13 of the opposite sex (heterosexual orientation) or to the absence of sexual  
14 attraction (asexual orientation); and

15 i) *Stigma* refers to the dynamic devaluation and dehumanization of an  
16 individual in the eyes of others which may be based on attributes that  
17 are arbitrarily defined by others as discreditable or unworthy, and which  
18 result in discrimination when acted upon.

19 *Sec. 3. Discriminatory Practices.* – It shall be unlawful for any person, natural or  
20 juridical, to engage in discrimination as defined in this Act, which shall include:

21 a) Denying access to public services to any person on the basis of sexual  
22 orientation or gender identity or expression;

23 b) Including sexual orientation or gender identity or expression, as well as  
24 the disclosure of sexual orientation, in the criteria for hiring, promotion,  
25 transfer, designation, work assignment, re-assignment, dismissal of  
26 workers, and other human resource movement and action, performance  
27 review, and in the determination of employee compensation, access to  
28 career development opportunities, training, and other learning and  
29 development interventions, incentives, privileges, benefits or allowances,  
30 and other terms and conditions of employment.

31 c) Refusing admission or expelling a person from any educational or training

1 institution on the basis of sexual orientation or gender identity or  
2 expression, including discriminating against a student or trainee due to  
3 the sexual orientation or gender identity or expression of the student's  
4 parents or guardian;

5 d) Imposing disciplinary sanctions, penalties harsher than customary or  
6 similar punishments, requirements, restrictions or prohibitions that  
7 infringe on the rights of the students on the basis of sexual orientation  
8 or gender identity or expression, including discriminating against a  
9 student or trainee due to the sexual orientation or gender identity or  
10 expression of the student's parents or guardian;

11 e) Refusing or revoking the accreditation, formal recognition, registration or  
12 plan to organize of any organization, group, political party, institution, or  
13 establishment in educational institutions, workplaces, communities, and  
14 other settings, solely on the basis of the sexual orientation or gender  
15 identity or expression of their members or of their target constituencies;

16 f) Denying a person access to public or private medical and other health  
17 services open to the general public on the basis of such person's sexual  
18 orientation or gender identity or expression;

19 g) Denying an application for or revoking a professional or other similar kind  
20 of license, clearance, certification on, or any other similar document,  
21 except marriage license, issued by the government due to the applicant's  
22 sexual orientation or gender identity or expression;

23 h) Denying a person access to or the use of establishments, facilities,  
24 utilities, or services, including housing, open to the general public on the  
25 basis of sexual orientation or gender identity or expression;

26 i) Subjecting or forcing any person to undertake any medical or  
27 psychological examination to determine or alter, or both, the person's  
28 sexual orientation or gender identity or expression without the expressed  
29 approval of the person involved, except in cases where the person  
30 involved is a minor and below the age of discernment;

31 j) Harassment, coercion, or threats committed by members of institutions  
32 involved in the enforcement of law and the protection of rights of any  
33 person on the basis of sexual orientation or gender identity or expression;



- 1 k) Publishing information intended to "out" or reveal the sex, sexual  
2 orientation, or gender identity of persons without their consent, when  
3 such has not been made known by the person(s) concerned, and has  
4 been made with malicious intent or is primarily motivated by a desire for  
5 commercial profit;
- 6 l) Engaging in public speech, except religious speech, meant to shame,  
7 insult, vilify, or which tends to incite or normalize the commission of  
8 discriminatory practices against LGBTs, and which acts or practices in  
9 turn, intimidate them;
- 10 m) Subjecting persons or groups of persons to harassment generally defined  
11 as such unwanted conduct, pattern of conduct, act, or series of acts  
12 which tend to annoy, insult, bully, demean, offend, threaten, intimidate,  
13 alarm, or create a hostile or emotionally distressing environment, or put  
14 them in fear of their safety; and which behavior is motivated in whole or  
15 in part by the offender's bias, belief, or perception regarding the offended  
16 party's gender, sexual orientation, gender identity or expression,  
17 regardless of whether the belief or perception is correct;
- 18 n) Subjecting any person to gender profiling or to any investigatory  
19 activities;
- 20 o) Preventing a child under parental authority, custody, or guardianship  
21 from exhibiting or expressing one's sexual orientation or gender identity;  
22 or manifesting rejection of such child's sexual orientation or gender  
23 identity or expression by inflicting or threatening to inflict bodily or  
24 physical harm against the child or by causing mental or emotional  
25 suffering of the child through intimidation, harassment, public ridicule or  
26 humiliation, repeated verbal abuse, or other similar means, or in general,  
27 commit any act or omission prejudicial to the welfare and interest of the  
28 child as a result of the bias against the sexual orientation or gender  
29 identity of the child;

30 Sec. 4. *Penalties.* – A person who commits any discriminatory practice described  
31 in Section 3 shall, upon conviction, be penalized by a fine of not less than one hundred  
32 thousand pesos (P100,000) but not more than five hundred thousand pesos (P500,000)

1 or imprisonment of not less than one (1) year but not more than six (6) years, or both,  
2 at the discretion of the court.

3 *Sec. 5. Special Aggravating Circumstance.* – A person who commits any of the  
4 crimes in the Revised Penal Code or any special law and who is proven to have  
5 committed the same motivated by bias, prejudice, or hate based on sex, sexual  
6 orientation, or gender identity or expression, shall suffer the maximum penalty imposed  
7 by the Code or the relevant special law for such prohibited act.

8 *Sec 6. Implementing Rules and Regulations.* – The Department of Health (DOJ),  
9 the Civil Service Commission (CSC), the Philippine National Police (PNP), Department of  
10 Labor and Employment (DOLE), Department of Education (DepEd), Commission on  
11 Higher Education (CHED), and Department of Health (DOH), in coordination with all  
12 other concerned government implementing agencies and civil society organizations,  
13 shall formulate the rules and regulations necessary to implement the provisions of this  
14 Act within three (3) months from the effectivity of this Act.

15 *Sec 7. Appropriations.* – The amount necessary for the implementation of this Act  
16 shall be charged to the appropriations of the implementing agencies.

17 *Sec 8. Separability Clause.* – If any portion or provision of this Act is declared  
18 unconstitutional, the remainder of this Act or any provision not affected thereby shall  
19 remain in force and effect.

20 *Sec 9. Repealing Clause.* – Any law, presidential decree or issuance, executive  
21 order, letter of instruction, rule or regulation inconsistent with the provisions of this Act  
22 is hereby repealed or modified accordingly.

23 *Sec 10. Effectivity.* – This Act shall take effect fifteen (15) days following its  
24 complete publication in a newspaper of general circulation.

Approved,