

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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Office of the Secretary
of the Senate

'19 JUL 15 A9:49

SENATE

S.B. NO. 440

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Introduced by SENATOR RAMON BONG REVILLA, JR.

**AN ACT
EXPANDING THE PROHIBITED ACTS OF DISCRIMINATION AGAINST
WOMEN ON ACCOUNT OF SEX, AMENDING FOR THE PURPOSE ARTICLES
133 AND 135¹ OF PRESIDENTIAL DECREE NO. 442, AS AMENDED,
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES**

EXPLANATORY NOTE

Although women now have political rights in all but few countries of the world, and are, therefore, in a better position to become more active agents of change, their subordinate position in many other fields has delayed progress. (Whittick, Arnold, *Women Into Citizen* 1979)

The history of every nation bears witness to the changes that have gradually taken place in the situation of women at the local and national level, even at the international level. We have witnessed the development of wide possibilities for education and training, better access to economic opportunities, improve maternal and child health care and other social services, changes in civil laws and gradual changes in attitude towards women in general.

Their contributions to solving problems not only in their respective households but also in their workplace are more and more vital. Women should assume their responsibility as one of their priorities. This would finally make them equals as decision makers in local and national affairs. This could give them an opportunity not

¹ "The Labor Code of the Philippines: Renumbered", DOLE Edition, 2017.

only to improve their own situation but also share with men the responsibility in the affairs of society.

However, in the Philippines today, and even with the worldwide emancipation of women in society, discrimination against women generally still exists in the ordinary workplace. Filipino women continue to suffer indignities in the course of their employment, merely because they are women. While our constitutional policy is clear in recognizing the role of women in nation-building and in ensuring the fundamental equality before the law of women, an enabling legislation to fully carry out this mandate is lacking.

A report, "The Power of Parity: Advancing Women's Equality in Asia Pacific" made by McKinsey Global Institute (MGI) as featured in BusinessWorld on May 18, 2018 states that "on gender equality in work, the Philippines stands out for its progress" which is attributed to its pro-active legislation to eliminate gender inequality in the society. However, "lower-income women still confront considerable gender gaps and less opportunity".

To be able to sustain the improvement in the country's stature on gender quality, there is a need to enact a law, among others, that will ensure that women are not discriminated in work on account of their gender. Apart from promoting the rights and privileges of women, this endeavor could translate into a 7% increase in economic growth or \$40 billion a year by 2025 as noted by the MGI study.

This bill penalizes the employer who will give preference to a male applicant over a female applicant in the hiring process, whether through notices or advertisements for employment or in the actual recruitment, hiring or employment of workers where the particular job can be equally handled by a woman. Also, it prohibits the denial to any women the benefits of employment or other statutory benefits under our laws by reason of her sex.

We must not only recognize that women have an important role in nation building, but also realize that their position in society is eminent, integral and indispensable.

This humble representation urges the immediate passage of this bill.


RAMON BONG REVILLA, JR.

SENATE

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

1 Section 1. Article 133 of Presidential Decree No. 442, as amended otherwise
2 known as the Labor Code of the Philippines, is hereby further amended to read as
3 follows:

4 "Article 133. Discrimination Prohibited. - It shall be unlawful for
5 any employer to discriminate against any woman employee with respect
6 to terms and conditions of employment solely on account of her sex.

7 "The following are acts of discrimination:

8 "(a) Payment of a lesser compensation, including wage, salary or
9 other form of remuneration and fringe benefits, to a female
10 employee as against a male employee, for work of equal value;
11 [and]

12 "(b) Favoring a male employee over a female employee with
13 respect to promotion, **ASSIGNMENT**, training opportunities,
14 study and scholarship grants solely on account of their sexes [-];

¹ "The Labor Code of the Philippines: Renumbered", DOLE Edition, 2017.

1
2 **"(C) GIVING PREFERENCE TO A MALE EMPLOYEE OVER A**
3 **FEMALE EMPLOYEE IN THE HIRING PROCESS, WHETHER**
4 **THROUGH NOTICES, ANNOUNCEMENTS, OR**
5 **ADVERTISEMENTS FOR EMPLOYMENT AND**
6 **APPRENTICESHIP OR IN THE ACTUAL RECRUITMENT,**
7 **HIRING OR EMPLOYMENT OF WORKERS WHERE THE**
8 **PARTICULAR JOB CAN BE EQUALLY HANDLED BY A**
9 **WOMAN; AND,**

10 **"(D) FAVORING A MALE EMPLOYEE OVER A FEMALE**
11 **EMPLOYEE WITH RESPECT TO DISMISSAL OF**
12 **PERSONNEL OR THE APPLICATION OF THE FIRST IN -**
13 **FIRST OUT OR OTHER RETRENCHMENT POLICY OF THE**
14 **EMPLOYER.**

15 "Criminal liability for the willful commission of any unlawful act as
16 provided in this Article or any violation of the rules and regulations
17 issued pursuant to Section 2 hereof shall be penalized as provided
18 in Articles 288 and 289 of this Code: *Provided*, That the institution
19 of any criminal action under this provision shall not bar the
20 aggrieved employee from filing an entirely separate and distinct
21 action for money claims, which may include claims for damages
22 and other affirmative reliefs. The actions hereby authorized shall
23 proceed independently of each other."

24 Sec. 2. Article 135 of the Labor Code is hereby amended to read as follows:

25 "Article 135. Prohibited Acts. It shall be unlawful for any employer:

26 (1) To deny any woman employee the benefits provided for in
27 this Chapter or to discharge any woman employed by him for the
28 purpose of preventing her from enjoying any of the benefits
29 provided under this Code:

30 (2) To discharge such woman on account of her pregnancy, or
31 while on leave or in confinement due to her pregnancy;
32

1 (3) To discharge or refuse the admission of such woman upon
2 returning to her work for fear that she may again be pregnant
3 [-]OR;

4 (4) TO DENY ANY WOMAN THE BENEFITS OF
5 EMPLOYMENT OR OTHER STATUTORY BENEFITS UNDER
6 OUR LAWS BY REASON OF HER GENDER."

7 Sec. 3. *Penalties.* – Any employer who commits or attempts in any manner to
8 commit any of the acts herein prohibited shall, in addition to other penalties as may
9 be provided by law, upon conviction hereof, be punished by a fine of not less than
10 Fifty Thousand Pesos (P50,000.00), but not more than Two Hundred Thousand Pesos
11 (P200,000.00), and suffer imprisonment of not less than two (2) years but not more
12 than four (4) years: *Provided,* That the conviction or acquittal obtained by the
13 employer shall not be a bar to the filing by the female employee of a civil suit for the
14 payment of salaries or benefits due her.

15 Any employee or person who willfully aids or abets in the commission of the
16 acts prohibited herein or who causes the commission of any such acts by another shall
17 be liable in the same manner as the employer.

18 If the offender is not a Filipino citizen, he shall be deported immediately upon
19 service of the sentence imposed herein. If he is a government official or employee, he
20 shall be dismissed from the service and shall serve the maximum penalty prescribed
21 for the offense.

22 In the case of associations, partnerships or corporations, the penalty shall be
23 imposed on the partner, president, general manager, branch manager or responsible
24 officer responsible for the violation.

25 Sec. 4. *Implementing Rules and Regulations.* - Within thirty (30) days from the
26 effectivity of this Act, the Secretary of Labor and Employment, consultation with the
27 Tripartite Industrial Peace Council, shall issue and publish the necessary rules and
28 regulations to implement the provisions of this Act.

29 Sec. 5. *Separability Clause.* - If any provision of this Act is declared
30 unconstitutional, the same shall not affect the validity and effectivity of the other
31 provisions hereof.

1 Sec. 6. *Repealing Clause.* - All laws, executive orders, presidential decrees,
2 presidential proclamations, rules and regulations or parts thereof inconsistent with the
3 provisions of this Act are hereby repealed or modified accordingly.

4 Sec. 7. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
5 complete publication in the Official Gazette or in a newspaper of general circulation.

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7 Approved,