

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

7 JUL 18

SENATE
S. B. No. 1260

RECEIVED *[Signature]*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE


The Constitution and the Labor Code direct the State to promote equality of employment opportunities for all, regardless of sex, race, or creed. The word "sex" in the pertinent provision of the Labor code, however, pertains only to the male and the female gender and does not include homosexuals, bisexuals or heterosexuals. Consequently, there is no identifiable law or statute that specifically prohibits work discrimination on the basis of homosexuality, bisexuality, or heterosexuality. This bill fills the gap by prohibiting employment discrimination on the basis of sexual orientation.*

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
[Signature]

* This bill was originally filed during the Thirteenth Congress, First Regular Session.

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1 AN ACT
2 TO PROHIBIT EMPLOYMENT DISCRIMINATION
3 ON THE BASIS OF SEXUAL ORIENTATION

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

6 SECTION 1. *Short Title.* -- This Act shall be known as the "Employment Non-
7 Discrimination Act."

8 SECTION 2. *Declaration of Policy.* -- It is a declared State policy to ensure equal work
9 opportunities. Pursuant to this policy, it shall prohibit discrimination committed by an employer
10 against an employee on the basis of latter's sexual orientation.

11 SECTION 3. *Definition of Terms.* -- As used in this Act, the term:

12 (A) "Covered entity" means an employer, employment agency, labor organization, or
13 joint management committee;

14 (B) "Employer" includes any person acting directly or indirectly in the interest of an
15 employer in relation to an employee and shall include the Government and its
16 branches, subdivisions, and instrumentalities, all government-owned and controlled
17 corporations, as well as non-profit private institutions, or organizations;

18 (C) "Employee" includes any individual employed by an employer;

19 (D) "Employment agency" means any person regularly undertaking with or without
20 compensation to procure employees for an employer or to procure for employees as
21 opportunities to work for an employer and includes an agent of such a person;

1 (E) "Employment" or "employment opportunities" includes job application procedures,
2 hiring, advancement, discharge, compensation, job training or of dealing with
3 employment concerning terms and conditions of employment;

4 (F) "Person" includes one or more individuals the Government and all its branches,
5 subdivision and instrumentalities, all government-owned and controlled
6 corporations and institutions, as well as non-profit private institutions, or
7 organizations, labor unions, partnerships, associations, corporations, legal
8 representatives, mutual companies, joint-stock companies, trusts, unincorporated
9 organizations, trustees, or receivers.

10 (G) "Religious organizations" means—

11 (1) A religious corporation, association, or society; or

12 (2) A college, school, university, or other educational part controlled, managed,
13 owned, or supported by a religious corporation, association, or society whose
14 curriculum is directed toward the propagation of a particular religion;

15 (H) "Sexual orientation" means homosexuality, bisexuality, or heterosexuality, whether
16 such orientation is real or perceived; and

17 (I) "State" means the national government and all its branches, subdivisions, and
18 instrumentalities, and all government-owned and controlled corporations and
19 institutions.

20 SECTION 4. *Prohibited Practices.* – It shall be an unlawful employment practice:

21 (A) For an employer—

22 (1) To fail or refuse to hire or to discharge any individual, or otherwise to
23 discriminate against any individual with respect to his compensation, terms,
24 conditions, or privileged of employment, because of such individual's sexual
25 orientation;

26 (2) To limit, segregate, or classify his employees or applicants for employment in
27 any way which would deprive or tend to deprive any individual of

1 employment opportunities or otherwise adversely affect his status as an
2 employee, because of such individual's sexual orientation; and

3 (3) To otherwise discriminate against an individual based on the sexual
4 orientation of persons with whom such individual is believed to associate or to
5 have associated with;

6 (B) For an employment agency—

7 (1) To fail or refuse to refer for employment because of his sexual orientation;
8 and

9 (2) To otherwise discriminate against an individual based on the sexual
10 orientation of persons with whom such individual is believed to associate or to
11 have associated with.

12 (C) For a labor organization—

13 (1) To exclude or to expel from its membership any individual because of his
14 sexual orientation;

15 (2) To limit, segregate, or classify its membership or applicants for member, or to
16 classify or fail or refuse to refer for employment any individual, in any way
17 which would deprive or tend to deprive any individual of employment
18 opportunities, or would limit such employment opportunities or otherwise
19 adversely affect his status as an employee or as an applicant for employment,
20 because of such individual's sexual orientation;

21 (3) To cause or attempt to cause an employer to discriminate against an individual
22 in violation of this section; and

23 (4) To otherwise discriminate against an individual based on the sexual
24 orientation of persons with whom such individual is believed to associate or to
25 have associated with.

26 Criminal liability of the willful commission of any unlawful act as provided in
27 this section or any violation of the rules and regulations issued pursuant to Section
28 9 of this Act shall be penalized as provided in Article 288 and 289 of the Labor
29 Code: *Provided*, that the institution of any criminal action under this section shall

1 not bar the aggrieved employee from filing an entirely separate and distinct action
2 for money claims, which may include claims for damages and other affirmative
3 reliefs. The actions authorized in this section shall proceed independently of each
4 other.

5 SECTION 5. *Benefits.* – This Act does not apply to the provision of employee benefits to
6 an individual for the benefit of his or her partner.

7 SECTION 6. *Religious Exemption.* –

8 (A) *In General.* – Except as provided in paragraph (B), this Act shall not apply to
9 religious organizations.

10 (B) *For Profit Activities.* – This Act shall apply with respect to employment and
11 employment opportunities that relate to any employment position that pertains solely to a
12 religious organization’s for profit activities.

13 SECTION 7. *Non-Application to Member of the Armed Forces.* – For the purpose of this
14 Act, the term employment or employment opportunities does not apply to members of the Armed
15 Forces. The term Armed Forces means the Army, Navy, Air Force, Marine Corps, Coast Guard,
16 and the Philippine National Police.

17 SECTION *Retaliation and Coercion Prohibited.* –

18 (A) *Retaliation.* – A Covered entity shall not discriminate against an individual because
19 such individual made a charge, assisted, testified, or participated in any means in an
20 investigation, proceeding, or hearing under this Act.

21 (B) *Coercion.* – A person shall not coerce, intimate, threaten, or interfere with any
22 individuals in the exercise or enjoyment of any right granted or protected under this Act.

23 SECTION 9. *Enforcement.* – The Secretary of Labor and employment and the Chairman
24 of the Civil Service Commission are hereby authorized to promulgate the necessary guideline to
25 implement this Act.

26

1 SECTION 10. *State Immunity.* The Secretary shall not be immune from an action in a
2 court of competent jurisdiction for a violation of this Act, remedies, excluding punitive damages,
3 are available for the violation to the same extent as such remedies are available in an action
4 against a private entity.

5 SECTION 11. *Relationship to Other Laws.* – This Act shall not invalidate or limit the
6 rights, remedies, or procedures available to an individual claiming discrimination prohibited
7 under any other law, rule or regulation.

8 SECTION 12. *Separability Clause.* – If any provision or part hereof, is held invalid or
9 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
10 valid and subsisting.

11 SECTION 13. *Repealing Clause.* – Any law, presidential decree or issuance, executive
12 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
13 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

14 SECTION 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
15 publication in at least two (2) newspapers of general circulation.

16 Approved,