

SENATE
S. No. 315

'19 JUL 10 A9:42

Introduced by Senator Grace Poe

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**AN ACT
PROHIBITING DISCRIMINATION ON THE BASIS OF ETHNICITY, RACE,
RELIGION OR BELIEF, SEX OR GENDER OR SEXUAL ORIENTATION,
LANGUAGE, DISABILITY, EDUCATIONAL ATTAINMENT, AND OTHER
FORMS OF DISCRIMINATION, PROVIDING PENALTIES THEREFOR,
AND FOR OTHER PURPOSES**

Explanatory Note

The 1987 Philippine Constitution guarantees equal protection for everyone. Article 2, Section 10 declares the policy of the State to "promote social justice in all phases of national development." Section 11 provides that the State "values the dignity of every human person and guarantees full respect for human rights," while Section 14 imposes on the State the duty to value the "role of women in nation-building, and shall ensure the fundamental equality before the law of women and men."

Article 3, Section 1 of the fundamental law states that, "[n]o person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws."

The United Nations Universal Declaration of Human Rights (UDHR), which the Philippines is a signatory, provides that the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." The UDHR also provides that everyone is entitled to all the rights and freedoms without distinction of any kind such as race, color, sex or gender or sexual orientation language, religion political or other opinion, educational attainment, national or social origin, property, birth or other status.

This proposal seeks to enhance the basic rights enshrined in the Constitution and several international declarations, prevent and criminalize various forms of discrimination and penalize such. Any form of discrimination may be categorized as a crime against humanity and human dignity in that several international declarations

promote the equal treatment of all people and prevent discrimination on the basis of race, ethnicity, and other status.

Under this measure, discriminatory acts such as inflicting stigma, denial of education, political, civil and cultural rights, right to work, access to goods and services, and the right to organize, inflicting harm on health and well-being, engaging in profiling, abuses by state and non-state agencies, and detention and confinement are strictly prohibited and will be met with corresponding penalties.

In contemporary situation, discrimination happens in Philippine society:

- In 2003, a Manobo family was forced out of their ancestral land on the account of their indigenous ancestry;
- There are countless reported cases of discrimination of members of the LGBT community in their respective workplaces; and
- Racial profiling and discrimination often victimize those being labeled as "Muslim Type" in investigations.

Many say that there is no place for oppression in a democratic country like the Philippines. Everyone deserves equal economic, political, and social rights and access to opportunities. The social stigma of discrimination is dangerous and depressing, and may sometimes become lethal on the part of the victim.

In view of the foregoing, immediate approval of this bill is hereby earnestly sought.


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AND FOR THE PURPOSE**

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

Section 1. *Short Title.* – This Act shall be known as the "*Anti-Discrimination Act of 2019.*"

Sec. 2. *Declaration of Policies.* – It is the policy of the State to work actively for the elimination of all forms of discrimination that offend the equal protection clause of the Bill of Rights and the State obligations under human rights instruments acceded to by orientation. Towards this end, discriminatory practices as defined herein shall be prescribed and penalized.

Sec. 3. *Definition of Terms.* – For the purposes of this Act, the following shall be defined as follows:

- a. *Discrimination* – constitutes any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on ethnicity, race, religion or belief, sex and gender, disability, or other status, which has the intention or equal footing, of political, civil, economic, social, and cultural rights. Discrimination, which also includes

1 incitement to discriminate and harassment, is a result or a product of
2 stigma.

3 b. *Education and Training* – refers to all types and levels of education,
4 training, and other avenues for learning and includes access thereto, the
5 standard and quality thereof, and the conditions under which the same is
6 given.

7 c. *Employment* – refers to all terms, conditions, and privileges relating to
8 work in public and private institution, including policies, application
9 procedures, training, incentives, compensation, determination of benefits
10 or allowances, promotion, advancement opportunities, transfer and
11 dismissal

12 This definition shall apply to regular, probationary, casual,
13 contractual, fixed-term, and seasonal workers. In legitimate contracting
14 arrangements, the contractor/subcontractor shall be deemed the employer
15 of the contractual employee.

16 d. *Indigenous Peoples* – include Peoples who are regarded as indigenous on
17 account of their descent from the populations which inhabited the country,
18 at the time of conquest or colonization, or at the time of inroads of non-
19 indigenous religions and cultures, or the establishment of present state
20 boundaries, who retain some or all of their own social, economic, cultural
21 and political Institutions, but who may have been displaced from their
22 traditional domains or who may have resettled outside their ancestral
23 domains;

24 Indigenous Peoples also refers to a group of people or homogenous
25 societies identified by self-ascription and ascription by others, who have
26 continuously lived as organized community on communally bounded and
27 defined territory, and who have, under claims of ownership since time
28 immemorial, occupied, possessed and utilized such territories, sharing
29 common bonds of language, customs, tradition and other distinctive
30 cultural traits or who have, through resistance to political, social and

1 cultural inroads of colonization, non-indigenous religions and cultures,
2 became historically differentiated from the majority of Filipinos;

3 e. *Profiling* – means relying on the prohibited grounds of discrimination in
4 subjecting a person or group of persons to investigatory activities, which
5 include unnecessary, unjustified, illegal and degrading searches,
6 questioning or other investigatory activities, in determining whether an
7 individual is engaged in an activity presumed to be unlawful, immoral, or
8 socially unacceptable.

9 f. *Stigma* – refers to the dynamic process of devaluation that significantly
10 discredits a individual in the eyes of others. When stigma is acted upon,
11 the result is discrimination.

12 g. *Vulnerable communities* – refers to communities or sectors that encounter
13 stigma and discrimination based on the ground's enumerated in Section 4.

14 Sec. 4. *Prohibited Grounds for Discrimination.* – For the purposes of this Act,
15 discrimination that is indirectly based on the actual or perceived ethnicity, race,
16 religion or belief, sex or gender or sexual orientation, gender identity, gender
17 expression, civil status, disability, HIV status, or other status is prohibited.

18 Ethnicity, race, religion or belief, sex or gender or sexual orientation, civil
19 status, disability, educational attainment or other status that differentiates or any
20 form of discrimination shall be interpreted in their most common or universal
21 definitions and with due regard to the promotion of meaningful implementation of
22 non-discrimination policy.

23 Sec. 5. *Discriminatory Acts.* – The following Acts shall be prohibited:

24 a. *Inflicting stigma* – it shall be unlawful for any person to commit any acts
25 that promote and encourage stigma based on the grounds referred to in
26 Section 4. Content in the media, in educational textbooks, or in other
27 medium that aims to inflict stigma is likewise prohibited.

28 b. *Denial of political, civil, and cultural rights* – it shall be unlawful to deny a
29 person enjoyment of political, civil and cultural rights based on the
30 grounds referred to Section 4.

31 c. *Denial of right to education* – it is unlawful for any person to:

1. Refuse admission or expel a person from any educational or training institution on the basis of the grounds defined in Section 4, without prejudice to the right of educational or training institutions to determine the academic qualifications of their students or trainees;
 2. Impose disciplinary sanction, penalties harsher than customary, or similar punishment, requirements, restrictions, or prohibitions that infringe on the rights of the students on the basis of the grounds identified in Section 4; and
- This prohibition extends to acts committed against a student or trainee to discriminate his or her parents or legal guardians based on grounds referred to in Section 4.
- d. *Denial of right to work* – it is unlawful for any person to:
1. Use the grounds in Section 4 or require the disclosure thereof in the selection, promotion, and termination of workers, and in the determination of compensation, training, incentives, privileges, benefits or allowances, as well as other terms and conditions of employment;
 2. Deny employment in government institutions, including police and military service, based directly or indirectly on the grounds referred to in Section 4;
 3. Refuse to enter into contract or agreement with persons or group of persons based solely or partly on the grounds provided in Section 4; and
 4. Deny an application for or revoke a professional license issued by the government directly or indirectly due to the grounds included in Section 4.
- e. *Denial of access to goods and services* – it is unlawful for any person to:
1. Deny a person, solely on the basis of the grounds in Section 4, and goods and services available to the general public, such as but not limited to private and public insurance, housing and other forms of accommodation, medical and clinical services;

1 2. Refuse entry to evict a person from any establishment, facilities or
2 utilities that are open to the general public, such as but not limited to
3 restaurants, bars, hotels, shopping malls, solely or partly on the basis
4 of the grounds listed in Section 4;

5 3. Cause undue and unjust deferral of services or provision of inferior
6 services to persons due to the grounds in Section 4; and

7 There is discrimination if the acts above are committed against
8 organizations or groups of persons based on the grounds identified in
9 Section 4.

10 f. *Denial of rights to organize* - it shall be unlawful to prohibit, prevent, or
11 revoke the accreditation, formal recognition, and/or registration of any
12 organization, group, political party, institution or establishment, in
13 educational institutions, workplaces, communities, and other settings,
14 based partly or solely on the grounds provided for in Section 4.

15 Discrimination is also committed when additional requirements beyond the
16 customary are imposed directly or indirectly due to the grounds stipulated
17 in Section 4.

18 g. *Inflicting harm on health and well-being* – it shall be unlawful to subject
19 any person, without consent, to any unnecessary medical or physical
20 examination, psychological treatment, faith based practices, and other
21 similar procedures based solely or partly on any of the grounds referred to
22 in Section 4 that aim to change identity or physical attributes or impose
23 behavior or expressions.

24 h. *Engaging in profiling* – it shall be illegal for any person, including members
25 of the military and law enforcement agencies, to engage in profiling based
26 solely or partly on the grounds included in Section 4.

27 i. *Abuses by State and Non-State actors* – it shall be unlawful for any
28 government agencies, including local government units, police, military,
29 and immigration, to harass verbally or physically, to curtail freedom of
30 movement, or to extort from a person or a group pf persons on the basis

1 of the grounds stipulated in section 4. This prohibition applies to similar
2 abuses committed by non-state actors.

3 j. *Detention and confinement* – it shall be unlawful to detain and confine a
4 person or group of persons based directly or indirectly on the grounds
5 under Section 4.

6 k. *Other analogous circumstances* – Any analogous acts which have the
7 effect or purpose of impairing or nullifying the recognition, enjoyment, or
8 exercise of the person’s human rights and fundamental freedoms are also
9 prohibited.

10 Sec. 6. *Liability.* – Any person, natural or juridical, or their representatives,
11 including government, government-owned and controlled corporations, Institution or
12 company, who commits any of the acts under Section 5, shall be liable under this
13 Act.

14 Any person, natural or juridical, or their representatives, who requests,
15 instructs, induces, encourages, authorizes, tolerates, or assists another to commit
16 any of the acts under Section 5 shall be principally liable under this Act.

17 Sec. 7. *Programs to Promote Non-Discrimination and Diversity.* – The State
18 shall endeavor to eliminate all forms of discrimination and shall therefore pursue
19 initiatives and programs that seeks to enable an environment free of stigma and
20 discrimination. It shall direct the machinery and resources of the State to ensure
21 non-discrimination and promote equality and shall encourage sectors of the society
22 to engage and participate in these efforts. It shall ensure the establishment of the
23 following programs:

24 a. *Social Protection Program* – The National government shall implement
25 social protection measures for communities affected by the vulnerable to
26 stigma and discrimination.

27 b. *Diversity Programs and policies* – All government agencies, non-
28 government agencies, government-owned and controlled corporation,
29 private companies, public and private educational institutions, and other
30 entities shall establish diversity programs to ensure that discrimination and
31 abuse are prevented. They shall also create an internal redress

1 mechanism to address cases of discrimination and grant administrative
2 remedies or sanction for such cases.

3 The Civil Service Commission, Department of Labor and Employment,
4 department of Interior and Local Government, the Armed Forces of the Philippines,
5 Department of Education, Commission on Higher Education, Technical Education and
6 Skills Development Authority, department of Justice, Department of Foreign Affairs
7 and Department of Health shall ensure the implementation of this section.

8 Failure of the above agencies to ensure the implementation of this provision
9 shall be deemed refusal to address discrimination and shall be penalized as
10 analogous act of discrimination.

11 *Sec. 8. Duties of the Commission on Human Rights.* – The Commission shall
12 investigate and prosecute on its own or on complaint by any person acts or
13 omissions violating this Act. If the Commission has reasonable cause to believe that
14 any person or group is engaged in discrimination under this Act, the Commission
15 shall commence a legal action in the regular court.

16 The Commission shall also direct the officer concerned to take appropriate
17 action against a public officer or employee at fault or who neglect to perform an act
18 or discharge a duty required under this Act, and order revocation of license, removal
19 from office or employment, suspension, demotion, fine, censure, or prosecution, and
20 ensure compliance therewith. Refusal by any officer without just cause to comply
21 with an order of the Commission to revoke the license, remove, suspend, demote,
22 fine, censure, or prosecute an officer or employee who is at fault, or who neglects to
23 perform an act or discharge duty required under this act, shall be a ground for
24 disciplinary action against said officer.

25 *Sec. 9. Penalties.* – Persons found guilty of any of the discriminatory practices
26 under Section 5(A), 5(B), 5(E), 5(F), and 4(K) of this act shall be penalized with a
27 fine of not less than One Hundred Thousand pesos (P100,000) but not to exceed
28 Two Hundred and Fifty Thousand Pesos (P250,000) or imprisonment of two (2)
29 years but not more than six (6) years, or both at the discretion of the court.

30 Persons found guilty of any of the discriminatory practices under Section 5(C),
31 5(D), 5(G), 5(H), 5(I), 5(J) and 5(K) of this Act shall be penalized with a fine of not

1 less than two Hundred Fifty Thousand Pesos (250,000) but not to exceed Five
2 Hundred Thousand pesos (P500,000) or imprisonment of six (6) years but not more
3 than twelve (12) years, or both at the discretion of the court.

4 If the violator is a corporation, organization or any similar entity, the officials
5 thereof directly involved shall be liable therefor.

6 If the violator is an alien or foreigner, he shall be deported immediately after
7 service of sentence without further deportation proceedings.

8 Persons found guilty of any of the discriminatory practices prohibited under
9 this Act shall also be civilly liable.

10 The Administrative remedies provided under this act do not bar prosecution
11 or civil claims in proper courts for ant act of discrimination committed under this Act.

12 If any crime penalized under the Revised Penal Code is Committed in pursuit
13 of discrimination, the penalty provided under the Revised Penal Code shall be
14 applied and the discrimination committed shall be considered as an aggravating
15 circumstance.

16 Sec. 10. *Appropriations.* – The initial amount necessary to implement the
17 provisions of this Act shall be charged against the current year's appropriation of the
18 agencies tasked to implement the provisions of this Act. Thereafter, such sums as
19 maybe necessary for the continued implementation of this Act shall be included in
20 the Annual General Appropriations Act.

21 Sec. 11. *Implementing Rules and Regulations.* – The Commission on Human
22 rights, Civil Service Commission, Department of labor and Employment, Department
23 of Interior and Local Government, The armed Forces of the Philippines, Department
24 of Education, Commission on Higher Education, Technical Education, and Skills
25 Development Authority, Department of Justice, Department of Foreign Affairs,
26 Department of Health, Commission on indigenous Peoples, and National Commission
27 on Muslim Filipinos shall promulgate the necessary implementing rules and
28 regulations within sixty (60) days from the effectivity of this Act.

29 Sec. 12. *Separability Clause.* – Any portion or Provision of this Act that may
30 be declared unconstitutional or invalid shall not have the effect of nullifying the other

1 portions and provisions hereof as long as such remaining portion or provision can
2 still subsist and be given effect in their entirety.

3 Sec. 13. *Repealing Clause.* – All laws, decrees, orders, rules and regulation or
4 parts thereof inconsistent with this Act are hereby repealed, amended, or modified
5 accordingly.

6 Sec. 14. *Effectivity.* – This Act shall take effect fifteen (15) days after its
7 publication in the Official gazette or in at least two (2) newspaper of general
8 circulation.

Approved,