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**Republic of the Philippines**  
**HOUSE OF REPRESENTATIVES**  
Quezon City, Metro Manila

**FIFTEENTH CONGRESS**  
First Regular Session

House Bill No. 515

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**Introduced by AKBAYAN Party-List Representatives**  
**Hon. Kaka Bag-ao and Hon. Walden Bello**

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**EXPLANATORY NOTE**

The equal protection clause in the Bill of Rights proscribes discrimination on the basis of sexual orientation or any other status in the enjoyment of rights. The equal protection clause, according to an eminent constitutionalist, "is the specific constitutional guarantee of the Equality of the Person." (J. Bernas, S.J., *Constitutional Rights & Social Demands: Notes and Cases*, Vol. II [1991], p. 48) This clause requires that "laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed." (J.M. Tuason and Co. vs. The Land Tenure Administration, 31 SCRA 413)

The fundamental law also declares that the State values the dignity of every human person and guarantees full respect for human rights (Section 11, Article II, 1987 Constitution). It also imposes on the State the duty to ensure the fundamental equality before the law of women and men (Sec. 14, *Id.*).

In addition, the Philippines is a signatory to numerous international agreements that seek to ensure respect for the human rights of all persons regardless of sex, sexual orientation or any other condition. These international human rights instruments have consistently been interpreted by international institutions, such as the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights, to include protection against discrimination on the basis of sexual orientation. In *Toonen v. Australia*, the UN Human Rights Committee interpreted Article 26 of the International Covenant on Civil and Political Rights (ICCPR), which obliges States to "guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status," to include a protection against discrimination on the basis of sexual orientation. The Committee on Economic, Social and Cultural Rights has also interpreted Article 2 of the ICESCR to include sexual orientation in the Covenant's non-discrimination provisions.

Unfortunately, reality has still to catch up with the noble intentions of these numerous laws and international agreements. Lesbians and gays continue to be oppressed by the iniquitous treatment of society at large, primarily because of misconceptions and ignorance. Sadly for our democracy, gays and lesbians are still considered second class citizens when they try to exercise the rights to which they are rightfully entitled.

In schools, workplaces, commercial establishments, public service, police and the military, prejudicial practices and policies based on sexual orientation and gender identity limit the exercise and enjoyment of basic human rights and fundamental freedoms. Lesbian or gay students, for instance, are refused admission or expelled from schools due to their sexual orientation or gender identity. Companies block the promotion of lesbian and gay employees

60 due to the deeply embedded notion that homosexuality is an indication of weakness. Laws such  
61 as the anti-vagrancy law are also abused by law enforcement agencies to harass gay men.  
62

63 There is, therefore, an urgent need to define and penalize practices that unjustly  
64 discriminate against lesbians and gays. It should be emphasized that the list contained herein is  
65 not exhaustive as it focuses only on the most blatant instances of discrimination. Similar  
66 instances of discrimination should be deemed included among the prohibited practices by  
67 analogy.  
68

69 In view of the foregoing, and of the need to correct the long-standing discrimination  
70 against lesbians and gays in Philippine society, the early passage of this bill is earnestly urged.  
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75 **Hon. KAKA BAG-AO**  
76 Representative, Akbayan Party-list  
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**Hon. WALDEN BELLO**  
Representative, Akbayan Party-list

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**AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION  
AND GENDER IDENTITY AND PROVIDING PENALTIES THEREFOR**

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

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102  
103 SECTION 1. *Title.* -- This Act shall be known and cited as the "Anti-Discrimination Act."

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105 SEC. 2. *Declaration of policy.* -- It is the policy of the state to work actively for the elimination  
106 of all forms of discrimination that offends the equal protection clause of the Bill of Rights and  
107 the State obligations under human rights instruments acceded to by the Republic of the  
108 Philippines, particularly those discriminatory practices based on sex or sexual orientation.  
109 Towards this end, discriminatory practices as defined herein shall be proscribed and penalized.

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111  
112 SEC. 3. *Definition of Terms.* -- For purposes of this Act, the following terms shall be defined as  
113 follows:

- 114  
115 a. Sexual Orientation refers to the direction of emotional sexual attraction or conduct.  
116 This can be towards people of the same sex (homosexual orientation) or towards  
117 people of both sexes (bisexual orientation) or towards people of the opposite sex  
118 (heterosexual orientation)
- 119  
120 b. Gender Identity refers to the personal sense of identity as characterized, among  
121 others, by manners of clothing, inclinations, and behavior in relation to masculine or  
122 feminine conventions. A person may have a male or female identity with the  
123 physiological characteristics of the opposite sex.
- 124  
125 c. Discrimination shall be understood to imply any distinction, exclusion, restriction, or  
126 preference which is based on any ground such as sex, sexual orientation, gender  
127 identity, whether actual or perceived, and which has the purpose or effect of  
128 nullifying or impairing the recognition, enjoyment, or exercise by all persons of an  
129 equal footing of all rights and freedoms.

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132 SEC. 4. *Discriminatory practices.* -- It shall be unlawful for any person, natural or juridical, to:

- 133  
134 (a) Deny access to public service, including military service, to any person on the basis of  
135 sexual orientation and/or gender identity;
- 136

- 137 (b) Include sexual orientation and gender identity, as well as the disclosure of sexual  
138 orientation, in the criteria for hiring, promotion and dismissal of workers, and in the  
139 determination of employee compensation, training, incentives, privileges, benefits or  
140 allowances, and other terms and conditions of employment;

141  
142 This prohibition on the basis of sexual orientation and gender identity shall also include  
143 the contracting and engaging of services of juridical persons.  
144

- 145 (c) Refuse admission or expel a person from educational institutions on the basis of sexual  
146 orientation and gender identity, without prejudice to the right of educational institutions  
147 to determine the academic qualifications of their students;  
148

149 This prohibition shall include the imposition of (i) disciplinary sanctions solely on the  
150 basis of sexual orientation and gender identity; (ii) penalties harsher than customary  
151 primarily due to sexual orientation and gender identity; or (iii) similar punishments and  
152 prohibitions.  
153

- 154 (d) Refuse or revoke the accreditation, formal recognition, and / or registration of any  
155 organization, group, political party, institution or establishment, in educational  
156 institutions, workplaces, communities, and other settings, solely on the basis of the  
157 sexual orientation or gender identity of their members or of their target constituencies;  
158

159 This prohibition shall also include the prevention of and prohibitions on attempts to  
160 organize;  
161

- 162 (e) Deny a person access to medical and other health services open to the general public  
163 on the basis of such person's sexual orientation or gender identity;  
164

- 165 (f) Deny an application for or revoke a professional license issued by the government due  
166 to the applicant's sexual orientation or gender identity;  
167

- 168 (g) Deny a person access to or the use of establishments, facilities, utilities or services,  
169 including housing, open to the general public on the basis of sexual orientation or  
170 gender identity; There is a denial when a person is given inferior accommodations or  
171 services;  
172

173 This prohibition includes the discrimination of juridical persons solely on the basis of the  
174 sexual orientation or gender identity of their members or of their target constituencies;  
175

- 176 (h) Subject or force any person to any medical or psychological examination to determine  
177 and/or alter the person's sexual orientation or gender identity without the expressed  
178 approval of the person involved, except in cases where the person involved is a minor  
179 under the age of discernment in which case prior approval of the appropriate Family  
180 Court shall be required. In the latter case, the child shall be represented in the  
181 proceeding by the Solicitor General or the latter's authorized representative;  
182

- 183 (i) Harassment by members of institutions involved in the enforcement of law and the  
184 protection of rights, such as the Philippine National Police and the Armed Forces of the  
185 Philippines, of any person on the basis of his or her sexual orientation or gender  
186 identity. Among other cases, harassment occurs when a person is arrested or otherwise  
187 placed in the custody and extortion, physical or verbal abuse takes place, regardless of  
188 whether such arrest has legal or factual basis. Harassment of juridical persons on the  
189 basis of the sexual orientation or gender identity of their members, stockholders,  
190 benefactors, clients, or patrons is likewise covered by this provision.  
191

- 192 (j) Other analogous circumstances.  
193

194 SEC. 5. *Administrative sanctions.* -- Refusal of a government official whose duty is to  
195 investigate, prosecute or otherwise act on a complaint for a violation of this Act to perform such

196 a duty without a valid ground shall constitute gross negligence on the part of such official who  
197 shall suffer the appropriate penalty under civil service laws, rules, and regulations.  
198

199 *SEC. 6. Penalties.* -- (a) Persons found guilty of any of the discriminatory practices  
200 enumerated in the preceding Section shall be penalized with a fine of not less than One  
201 Hundred Thousand Pesos (P100,000) but not to exceed Five Hundred Thousand Pesos  
202 (P500,000) or imprisonment of not less than one (1) year but not more than one (6) years, or  
203 both at the discretion of the court. In addition, community service in terms of human rights  
204 education to the perpetrator and exposure to the plight of the victims can be imposed at the  
205 discretion of the court.  
206

207 (b) The officials directly involved shall be liable for violations committed by  
208 corporations, organizations, or similar entities.  
209

210 *SEC. 7. Separability clause.* -- If any provision of this Act is declared unconstitutional or  
211 otherwise invalid, the validity of the other provisions shall not be affected thereby.  
212

213 *SEC. 8. Repealing clause.* -- All laws, decrees, orders, rules and regulations or parts thereof  
214 inconsistent with this Act are hereby repealed or modified accordingly.  
215

216 *SEC. 9. Effectivity.* -- This Act shall take effect fifteen (15) days after its publication in the  
217 *Official Gazette* or in at least two (2) newspapers of general circulation.  
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220 *Approved,*  
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