

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

HOUSE OF REPRESENTATIVES

House Bill No. 863

HOUSE OF REPRESENTATIVES	
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Introduced by Representative Victor A. Yap

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#### EXPLANATORY NOTE

'Hate crime' is a concept rarely used in the Philippines. The term was coined in the 1980s by US journalists who wished to describe a series of incidents against African-Americans, Jews and Asians. Also called a 'bias crime', it has been defined as a "*criminal offense committed against a person or property that is motivated, in whole or in part, by the offender's bias against race, religion, ethnicity/ national origin, sexual orientation or disability.*"

Hate crimes are predicated by an underlying offense (e.g., assault or vandalism), but the penalty is aggravated because of the bias motivation. The debate has centered on whether hate-crime laws punish thoughts rather than actions as it is difficult to determine with legally acceptable certainty the motive behind a person's criminal acts. In the United States, there have been various First Amendment challenges to hate-crime statutes primarily on the basis of vagueness. But in *Wisconsin v. Mitchell*, the US Supreme Court upheld the validity of a hate-crime penalty enhancement since "*it was motivated by the desire to address a greater societal harm that is inflicted by bias-inspired conduct, not by an attempt to suppress free speech.*"

Just very recently, the deadliest hate crime was committed in Orlando Florida, USA. 50 people ended up dead with another 53 severely injured after just one person started shooting mostly LGBT (Lesbians, Gays, Bisexuals and Trans-genders) persons in a nightclub in the said city.

This kind of a hate crime should not be allowed to even gain root in the Philippines.

Under this measure, the Revised Penal Code would be amended to include hate crimes as an aggravating circumstance. It would also include harsher punishments for hate crimes and entitle victims of violence under this measure to actual, compensatory, moral and exemplary damages.

In this respect, the immediate consideration and passage of this bill is earnestly requested.

  
VICTOR A. YAP  
Representative, 2<sup>nd</sup> District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. **863**

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Introduced by Representative Victor A. Yap

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AN ACT  
DEFINING HATE CRIMES, PRESCRIBING ITS PENALTY, ESTABLISHING  
INSTITUTIONAL MEASURES FOR ITS PREVENTION AND FOR OTHER  
PURPOSES

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

1           **SECTION 1. *Short Title.*** - This Act shall be known as the 'Anti-Hate Crime  
2 Act'.

3           **SECTION 2. *Definition of Hate Crime.*** - A hate crime is a criminal act  
4 provided under Titles 8 (Crimes Against Persons), 9 (Crimes Against Personal Liberty and  
5 Security) and 10 (Crimes Against Property) in Book Two of the Revised Penal Code  
6 committed against any person because of his actual or perceived race, religion, ethnicity,  
7 sexual orientation, gender, gender identity, or disability.

8           **SECTION 3. *Aggravating Circumstance.*** - In criminal acts provided under  
9 Titles 8, 9 and 10 in Book Two of the Revised Penal Code, the offender shall suffer the  
10 penalty next higher in degree than those provided in the said titles when committed against  
11 any person because of his actual or perceived race, religion, ethnicity, sexual orientation,  
12 gender, gender identity, or disability.

13           For the purpose of this Act, the offended party must be intentionally selected  
14 because of his personal characteristics.

15           **SECTION 4. *Prohibited Defense.*** - Being under the influence of alcohol, any  
16 illicit drug or any mind-altering substance shall not be a defense under this Act.

17           **SECTION 5. *Duties of Barangay Officials and Law Enforcers.*** - Barangay  
18 officials and law enforcers shall have the following duties:

- 1 a) Respond immediately to a call for help or request for assistance or protection of the  
2 victim by entering the dwelling if necessary to ensure the safety of the victim;
- 3 b) Confiscate any deadly weapon in the possession of the perpetrator or within plain view;
- 4 c) Transport or escort the victim to a safe place of their choice or to a clinic or hospital;
- 5 d) Assist the barangay officials and other government officers and employees who respond  
6 to a call for help;
- 7 e) Arrest the suspected perpetrator without a warrant when any of the acts of violence  
8 defined by this Act is occurring, or when he has personal knowledge that any act of  
9 abuse has just been committed, and there is imminent danger to the life or limb of the  
10 victim as defined in this Act; and,
- 11 f) Immediately report the call for assessment or assistance of the Department of Social  
12 Welfare and Development (DSWD), Social Welfare Department of the local  
13 government unit (LGU) concerned or accredited non-government organizations  
14 (NGOs).

15 Any barangay official or law enforcer who fails to report the incident shall be liable  
16 for a fine not exceeding Ten thousand pesos (P 10,000.00 ) or whenever applicable, criminal,  
17 civil or administrative liability.

18 **SECTION 6. *Duties of Other Government Agencies and LGUs.*** - Other  
19 government agencies and LGUs shall establish programs such as, but not limited to,  
20 education and information campaign and seminars or symposia on the nature, causes,  
21 incidence and consequences of hate crimes particularly towards educating the public on its  
22 social impact.

23 It shall be the duty of the concerned government agencies and LGUs to ensure the  
24 sustained education and training of their officers and personnel on the prevention of hate  
25 crimes.

26 **SECTION 7. *Persons Intervening Exempt from Liability.*** - In every case of  
27 violence against women any victim as herein defined, any person, private individual or police  
28 authority or barangay official who, acting in accordance with law, responds or intervenes

1 without using violence or restraint greater than necessary to ensure the safety of the victim,  
2 shall not be liable for any criminal, civil or administrative liability resulting therefrom.

3 **SECTION 8. *Rights of Victims.*** - In addition to their rights under existing laws,  
4 victims under this Act shall have the following rights:

- 5 a) To be treated with respect and dignity;
- 6 b) To avail of legal assistance from the Public Attorney's Office (PAO) of the Department  
7 of Justice (DOJ) or any public legal assistance office;
- 8 c) To be entitled to support services from the DSWD and LGUs concerned; and,
- 9 d) To be informed of their rights and the services available to them including their right to  
10 apply for a protection order.

11 **SECTION 9. *Damages.*** - Any victim of violence under this Act shall be  
12 entitled to actual, compensatory, moral and exemplary damages.

13 **SECTION 10. *Hold Departure Order.*** - The court shall expedite the process  
14 of issuance of a hold departure order in hate crime cases prosecuted.

15 **SECTION 11. *Appropriation.*** - Such amount as may be necessary for the  
16 continued implementation of this Act shall be included in the annual General  
17 Appropriations Act or in respective annual budgets of the LGUs.

18 **SECTION 12. *Implementing Rules and Regulations.***- Within ninety (90) days  
19 from the promulgation of this Act, the Department of Interior and Local Government and  
20 the DOJ shall promulgate the rules and regulations necessary for the effective  
21 implementation of this Act.

22 **SECTION 13. *Separability Clause.*** - If any part, section or provision of this  
23 Act shall be held invalid or unconstitutional, the other provisions not affected thereby shall  
24 remain in full force and effect.

25 **SECTION 14. *Repealing Clause.*** - All laws, decrees, executive orders, rules  
26 and regulations or issuances or parts thereof inconsistent with the provisions of this Act, are  
27 hereby modified or repealed accordingly.

1           **SECTION 15. *Effectivity.*** - This Act shall take effect fifteen (15) days after its  
2 full publication in the Official Gazette or in at least two (2) newspapers of general  
3 circulation.

4           **APPROVED.**