

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2021

H. B. 22- 87

A BILL FOR AN ACT

To prohibit discrimination on the basis of sex, gender identity, and sexual orientation, to be known as the CNMI Equality Act or Åktun Achá-Parehu or Alléghúl Aweewepagh of 2021.

BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

- 1 **Section 1. Findings and Purpose.** The Legislature finds that
2 discrimination can occur on the basis of sexual orientation, gender identity, and
3 gender expression. Each of these is considered a form of sex discrimination.
4 Lesbian, gay, bisexual, transgender and queer (also referred to as
5 “LGBTQ”) individuals or those who are perceived to be LGBTQ have been
6 subjected to a history and pattern of persistent, widespread and pervasive
7 discrimination in accessing public accommodations, healthcare, employment,
8 gender affirming identification documents, and services. The Legislature finds that
9 LGBTQ individuals in the Commonwealth of the Northern Mariana Islands have
10 experienced this type of discrimination, which has caused painful and unnecessary
11 hardship for LGBTQ individuals, especially for transgender people.
12 The Legislature finds that the absence of explicit prohibitions against

1 discrimination on the basis of sexual orientation and gender identity in the CNMI
2 has created social and economic disparities and unequal opportunities to life,
3 liberty, and the pursuit of happiness for LGBTQ individuals or individuals
4 perceived to be LGBTQ. This lack of protection promotes a culture of stigma and
5 hate that negatively impacts the safety, health, and well-being of LGBTQ people,
6 and has fostered systemic discrimination, including barriers to basic necessities
7 such as healthcare, employment, and identification documents.

8 In the words of U.S. Supreme Court Justice Anthony Kennedy, joined by
9 Associate Justices Ruth Bader Ginsberg, Stephen Breyer, Sonia Sotomayor, and
10 Elena Kagan, “The Constitution promises liberty to all within its reach, a liberty
11 that includes specific rights that allow persons within a lawful realm, to define and
12 express their identity.” The purpose of this Act is to ensure that everyone in the
13 CNMI, regardless of sexual orientation or gender identity, may enjoy the same
14 protections and equal access to advancement as provided by the Constitution.

15 The Legislature finds that the CNMI is a close-knit community founded
16 upon cultural values of respect and love for one another. Academic publications
17 like *Gender in the Pacific* (Volume 2 of Teaching Oceania Series, Fourth Edition,
18 2016) suggest that in pre-colonial times, indigenous cultures throughout the Pacific
19 including Micronesia, Polynesia, and Melanesia, respected and even revered people
20 of gender variance. In expanding the language of the Commonwealth’s
21 nondiscrimination laws and policies to expressly include sexual orientation and

1 gender identity, the Legislature affirms these deeply rooted values of love,
2 tolerance, and respect – the very fabric of the cultures of the Marianas and Oceania.

3 **Section 2. Enactment.** The following is enacted subject to codification by
4 the Commonwealth Law Revision Commission:

5 § 101 Short Title.

6 This Act shall be known and may be cited as the CNMI Equality Act or
7 *Åktun Achá-Parehu* or *Alléghúl Aweeweppagh*.

8 § 102 Purpose.

9 The purpose of this Act is to prohibit discrimination on the basis of sex,
10 gender identity, and sexual orientation. No person shall be denied the equal
11 protection of the laws or the enjoyment of civil rights, nor be discriminated against
12 in the exercise thereof, on account of sex, gender identity, or sexual orientation.

13 § 103. Discrimination in Employment Prohibited.

14 (a) No person shall discriminate against any other person in
15 employment, including but not limited to hiring, promotion, dismissal,
16 and the granting of appropriate salary and benefits because of race,
17 color, religion, national origin, sex, gender identity, or sexual
18 orientation.

19 (b) It shall be an unlawful employment practice for an employer,
20 employment agency, labor organization, or joint labor-management
21 committee controlling apprenticeship or other training or retraining

1 (including on-the-job training programs) to fail or refuse to hire or to
2 discharge any individual, or otherwise to discriminate against an
3 individual, based on the individual's hair texture or hairstyle, if that hair
4 texture or that hairstyle is commonly associated with a particular race
5 or national origin.

6 (c) Any violation of this section shall be:

- 7 (1) punishable by a fine of not more than \$2,000; and
8 (2) actionable as a civil tort within the jurisdiction of the
9 Northern Mariana Islands. A court that has found such
10 discrimination may grant punitive damages if it deems fit."

11 **Section 3. Amendment.** Title 1, Division 8, Section 8141 of the
12 Commonwealth Code is hereby amended to read as follows:

13 "§ 8141. Prohibited Activities: Discrimination Practices.

14 No person holding any position in the civil service shall be favored or
15 discriminated against on account of age, race, sex, gender identity, sexual
16 orientation, religion, political affiliation, or place of origin."

17 **Section 4. Amendment.** Title 1, Division 9, Section 9513(a) subsections
18 (7) and (8) of the Commonwealth Code is hereby amended to read as follows:

19 "§ 9513. Eligibility Requirements.

20 (a) General. A sports organization is eligible to be recognized, or to
21 continue to be recognized, as a national federation only if it:

1 (7) Provides an equal opportunity to athletes, coaches, trainers,
2 managers, administrators, and officials to participate in athletic
3 competition, without discrimination on the basis of race, color, religion, sex,
4 sexual orientation, gender identity, age, or national origin, and with fair
5 notice and opportunity for a hearing to any athlete, coach, trainer, manager,
6 administrator, or official before declaring the individual ineligible to
7 participate;

8 (8) Is governed by a board of directors or other governing board
9 whose members are selected without regard to race, color, religion, national
10 origin, sexual orientation, gender identity, or sex, except that, in sports
11 where there are separate male and female programs, it provides for
12 reasonable representation of both males and females on the board of
13 directors or other governing board;”

14 **Section 5. Amendment.** Title 1, Division 2, Section 20216 of the
15 Commonwealth Code is hereby amended to read as follows:

16 “§ 20216. Nondiscrimination.

17 The Commonwealth Medicaid Agency shall assure that no individual shall
18 be subjected to discrimination under the plan in this Article on the grounds of race,
19 color, sex, sexual orientation, gender identity, national origin, religion or
20 disability.”

1 **Section 6. Amendment.** Title 2, Division 4, Section 40103 subsections (a)
2 - (e) of the Commonwealth Code are hereby amended to read as follows; to add a
3 new subsection (f) to Title 2, Division 4, Section 40103 of the Commonwealth Code
4 to read as follows and to re-number all subsequent subsections accordingly:

5 “§ 40103. Discrimination in the Sale or Rental of Housing and Other
6 Prohibited Practices.

7 As made applicable by 2 CMC § 40102 and except as exempted by 2 CMC
8 § 40102(b) and 2 CMC § 40106, it shall be unlawful:

9 (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse
10 to negotiate for the sale or rental of, or otherwise make unavailable or deny, a
11 dwelling to any person because of race, color, religion, sex, sexual orientation,
12 gender identity, familial status, marital status, disability, or national origin.

13 (b) To discriminate against any person in the terms, conditions, or privileges
14 of sale or rental of a dwelling, or in the provision of services or facilities in
15 connection therewith, because of race, color, religion, sex, sexual orientation,
16 gender identity, familial status, marital status, disability, or national origin.

17 (c) To make, print, or publish, or cause to be made, printed, or published
18 any notice, statement, or advertisement, with respect to the sale or rental of a
19 dwelling that indicates any preference, limitation, or discrimination based on race,
20 color, religion, sex, sexual orientation, gender identity, disability, familial status,

1 marital status, or national origin, or an intention to make any such preference,
2 limitation, or discrimination.

3 (d) To represent to any person because of race, color, religion, sex, sexual
4 orientation, gender identity, disability, familial status, marital status, or national
5 origin that any dwelling is not available for inspection, sale, or rental when such
6 dwelling is in fact so available.

7 (e) For profit, to induce or attempt to induce any person to sell or rent any
8 dwelling by representations regarding the entry or prospective entry into the
9 neighborhood of a person or persons of a particular race, color, religion, sex, sexual
10 orientation, gender identity, disability, familial status, marital status, or national
11 origin.

12 (f) No person in the Commonwealth shall be subjected to a discriminatory
13 housing practice based on the person's hair texture or hairstyle, if that hair texture
14 or that hairstyle is commonly associated with a particular race or national origin."

15 **Section 7. Amendment.** Title 2, Division 4, Section 40104 of the
16 Commonwealth Code is hereby amended to read as follows:

17 "§ 40104. Discrimination in Residential Real Estate-Related Transactions.

18 (a) *In general.* It shall be unlawful for any person or other entity whose
19 business includes engaging in residential real estate-related transactions to
20 discriminate against any person in making available such a transaction, or in the
21 terms or conditions of such a transaction, because of race, color, religion, sex,

1 sexual orientation, gender identity, disability, familial status, marital status, or
2 national origin.

3 (b) Definition. As used in this section, the term “residential real estate-
4 related transaction” means any of the following:

5 (1) The making or purchasing of loans or providing other financial
6 assistance:

7 (i) For purchasing, constructing, improving, repairing, or
8 maintaining a dwelling; or

9 (ii) Secured by residential real estate

10 (2) The selling, brokering, or appraising of residential real property.

11 (c) Appraisal exemption. Nothing in this chapter prohibits a person engaged
12 in the business of furnishing appraisals of real property to take into consideration
13 factors other than race, color, religion, national origin, sex, sexual orientation,
14 gender identity, disability, familial status, or marital status.”

15 **Section 8. Amendment.** Title 2, Division 4, Section 40105 of the
16 Commonwealth Code is hereby amended to read as follows:

17 “§ 40105. Discrimination in the Provision of Brokerage Services.

18 It shall be unlawful to deny any person access to or membership or
19 participation in any multiple-listing service, real estate brokers’ organization or
20 other service, organization, or facility relating to the business of selling or renting
21 dwellings, or to discriminate against ~~him~~ any person in the terms or conditions of

1 such access, membership, or participation, on account of race, color, religion, sex,
2 sexual orientation, gender identity, disability, familial status, marital status, or
3 national origin.”

4 **Section 9. Amendment.** Title 2, Division 4, Section 40115 of the
5 Commonwealth Code is hereby amended to read as follows:

6 “§ 40115. Violations; Penalties.

7 Whoever, whether or not acting under color of law, by force or threat of
8 force willfully injures, intimidates or interferes with, or attempts to injure,
9 intimidate or interfere with:

10 (a) Any person because of ~~his~~ race, color, religion, sex, sexual orientation,
11 gender identity, disability (as such term is defined in 2 CMC § 40101), familial
12 status (as such term is defined in 2 CMC § 40101), marital status, disability, or
13 national origin and because ~~he~~ that person is or has been selling, purchasing,
14 renting, financing, occupying, or contracting or negotiating for the sale, purchase,
15 rental, financing or occupation of any dwelling, or applying for or participating in
16 any service, organization, or facility relating to the business of selling or renting
17 dwellings; or

18 (b) Any person because ~~he~~ that person is or has been, or in order to
19 intimidate such person or any other person or any class of persons from:

20 (1) Participating, without discrimination on account of race, color,
21 religion, sex, sexual orientation, gender identity, disability (as such term is

1 defined in 2 CMC § 40101), familial status (as such term is defined in 2
2 CMC § 40101), marital status, disability, or national origin, in any of the
3 activities, services, organizations or facilities described in subsection (a) of
4 this section; or

5 (2) Affording another person or class of persons opportunity or
6 protection so to participate; or

7 (c) Any citizen because ~~he~~ that citizen is or has been, or in order to
8 discourage such citizen or any other citizen from lawfully aiding or encouraging
9 other persons to participate, without discrimination on account of race, color,
10 religion, sex, sexual orientation, gender identity, disability (as such term is defined
11 in 2 CMC § 40101), familial status (as such term is defined in 2 CMC § 40101),
12 marital status, or national origin, in any of the activities, services, organizations or
13 facilities described in subsection (a) of this section, or participating lawfully in
14 speech or peaceful assembly opposing any denial of the opportunity to so
15 participate; shall be fined under this chapter or imprisoned not more than one year,
16 or both; and if bodily injury results from the acts committed in violation of this
17 section or if such acts include the use, attempted use, or threatened use of a
18 dangerous weapon, explosives, or fire shall be fined under this chapter or
19 imprisoned not more than 10 years, or both; and if death results from the acts
20 committed in violation of this section or if such acts include kidnapping or an
21 attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated

1 sexual abuse, or an attempt to kill, shall be fined under this chapter or imprisoned
2 for any term of years or for life, or both.”

3 **Section 10. Amendment.** Title 4, Division 5, Section 5120 of the
4 Commonwealth Code is hereby amended to read as follows:

5 “§ 5120. Discrimination.

6 It is an offense for any merchant to discriminate in commerce with any
7 person on the basis of the race, color, creed, religion, sex, sexual orientation, gender
8 identity, age, ethnic background, national origin, citizenship, or place of birth or
9 residence of the person.”

10 **Section 11. Amendment.** Title 4, Division 7, Section 7103(kk) of the
11 Commonwealth Code is hereby amended to read as follows:

12 “§ 7103. Definitions.

13 (kk) *Unreasonable Rate Increase.* A rate increase that is, excessive,
14 inadequate or unfairly discriminatory for the purposes of this chapter and as defined
15 below:

16 (1) Excessive rate increase—The rate increase is an excessive rate
17 increase if the increase causes the premium charged for the health insurance
18 coverage to be unreasonably high in relation to the benefits provided under
19 the coverage.

20 (2) Unjustified rate increase—The rate increase is an unjustified rate
21 increase if the health insurance issuer provides data or documentation to the

1 Commissioner in connection with the increase that is incomplete,
 2 inadequate or otherwise does not provide a basis upon which the
 3 reasonableness of an increase may be determined.

4 (3) Unfairly discriminatory—The rate increase is an unfairly
 5 discriminatory rate increase if the increase results in premium differences
 6 between insureds within similar risk categories that are not permissible
 7 under applicable state and federal statutes and regulations, including with
 8 regard to race, color, religion, sex, sexual orientation, gender identity, or
 9 national origin.”

10 **Section 12. Amendment.** Title 7, Division 3, Section 3105 of the
 11 Commonwealth Code is hereby amended to read as follows:

12 “§3105. Exclusion or Excuse from Service.

13 (a) A judge may, for good reason, excuse or exclude from jury service any
 14 person called as a juror.

15 (b) Any class or group of persons may, for the public interest, be excluded
 16 from the jury panel or excused from service as jurors by court order based on a
 17 finding that the jury service would entail undue hardship, extreme inconvenience,
 18 or serious obstruction or delay in the fair and impartial administration of justice;
 19 provided, that no citizen of the Trust Territory or of the United States shall be
 20 excluded from service as a juror on account of race, color, ~~or~~ religion, sexual
 21 orientation, gender identity, or national origin.”

1 **Section 13. Severability.** If any provisions of this Act or the application of
2 any such provision to any person or circumstance should be held invalid by a court
3 of competent jurisdiction, the remainder of this Act or the application of its
4 provisions to persons or circumstances other than those to which it is held invalid
5 shall not be affected thereby.

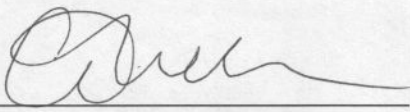
6 **Section 14. Savings Clause.** This Act and any repealer contained herein
7 shall not be construed as affecting any existing right acquired under contract or
8 acquired under statutes repealed or under any rule, regulation, or order adopted
9 under the statutes. Repealers contained in this Act shall not affect any proceeding
10 instituted under or pursuant to prior law. The enactment of the Act shall not have
11 the effect of terminating, or in any way modifying, any liability, civil or criminal,
12 which shall already be in existence on the date this Act becomes effective.

13 **Section 15. Effective Date.** This Act shall take effect upon its approval by
14 the Governor, or its becoming law without such approval.

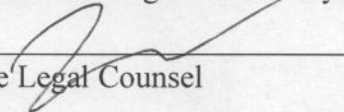
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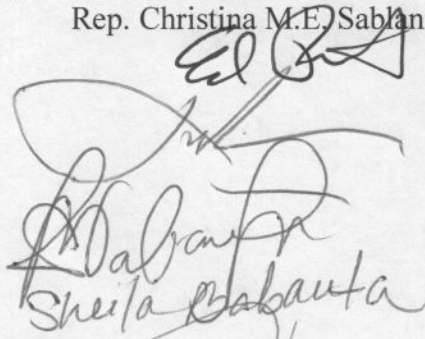
Date: 12/2/2021

Introduced by:


Rep. Christina M.E. Sablan

Reviewed for Legal Sufficiency by:


House Legal Counsel


Sheila Babauta


12/2/21

