

APPENDIX A

PROPOSED AMENDMENTS TO THE PROMOTION OF PROPER HUMAN SEXUAL RIGHTS AND GHANAIAAN FAMILY VALUES BILL, 2021

CLAUSE	PROPOSED AMENDMENT
Short title	<p>Line 1- <i>delete</i> "Promotion of Proper" and Rational: To remove subjectivity.</p> <p>Line 2- <i>delete</i> "Ghanaian"</p> <p>Rational: Every law passed in Ghana relates to Ghana and apply to persons in Ghana unless contrary intention is expressed.</p>
Long title	<p>1. Long title <i>delete</i> and <i>insert</i> "An Act to provide for human sexual rights and family values and related matters"</p> <p>Rational: To adequately reflect the purpose of the Bill and remove all subjectivities.</p>
Clause 1	<p>2. Paragraph(a)(vi), <i>delete</i></p> <p>Rational: The word "queer" is a description of all forms of LGBTQ+ related activities. It is therefore superfluous after outlining all the forms of LGBTQ+ related activities</p> <p>3. Paragraph (a)(ix), <i>delete</i> and <i>insert</i> the following: "(ix) a person of any other sexual orientation or in a sexual relationship that is contrary to the sociocultural relationship between a male and female." Rational: To remove ambiguity created by the phrase "a person of any other sociocultural notion of sex".</p> <p>4. Paragraph (b), <i>delete</i> and <i>insert</i> the following: "who is involved in questioning;" Rational: For clarity</p> <p>5. Paragraph (c)- <i>delete</i> Rational: biological anomaly including intersex may be congenital and not necessary a form of LGBTQ+</p> <p>6. Paragraph (d), Line 2, <i>delete</i> LGBTTQQIAAP+ and <i>insert</i> LGBTTAP+ Rational: To adopt a uniform and simplified description of all forms of LGBTQ+</p>
Clause 2	<p>7. Clause 2-<i>delete</i></p>



	<p>Rational: The interpretation clause be moved to the end of the Bill to align with jurisdictional practice.</p>
Clause 3	<p>8. Subclause 2, <i>delete</i> and <i>insert</i> the following: "Subject to article 39 of the 1992 Constitution, the following persons or institutions shall, within the control of the persons or institutions, protect and promote, through formal and informal education, the human sexual rights and family values specified in section 22 of this Act:".</p> <p>Rational: To reflect Article 39 of the 1992 Constitution.</p> <p>9. Subclause (2), paragraph (e) <i>delete</i> and <i>insert</i> "(e) state institutions"</p> <p>10. Subclause (2), paragraph (f) <i>delete</i> and <i>insert</i> "(f) organs of state;"</p> <p>Rational: To broaden the scope of institutions having a duty to promote and protect Ghanaian family values.</p> <p>11. Subclause (2), Paragraph (g) <i>delete</i></p> <p>12. Subclause (2) Paragraph (h) <i>delete</i></p> <p>Rational: Subclause (2) (e) and (f) has been expanded to take care of Subclause (2) (g) and (h).</p> <p>13. Subclause (3), opening phrase, <i>delete</i> "collectively" and <i>insert</i> "through formal and informal education"</p> <p>Rational: For consistency with amendment to subclause (2).</p> <p>14. Subclause (3), paragraph (c), line 2, <i>delete</i> "adopted" and <i>insert</i> "adapted".</p> <p>Rational: To reflect the language of the 1992 Constitution.</p>
Clause 4	<p>15. Clause 4 <i>delete</i></p> <p>Rational: There is so much subjectivities and ambiguities which makes it difficult to establish the offence</p>
Clause 5	<p>16. Clause 5, <i>delete</i></p> <p>Rational: Felt it was better to merge with clause 22.</p>

<p>Clause 6</p>	<p>17. Subclause (1) paragraph(a) <i>delete</i> Rational: An offence relating to unnatural carnal knowledge is in section 104 of the Criminal Offences Act, 1960 (Act 29), the Committee agreed to delete subclause (1)(a) and expand subclause (3) to create a broader prohibition to include sexual intercourse between females.</p> <p>18. Subclause (1), paragraph (d), <i>insert</i> "or object" after "animal" Rational: Expanding the provisions to criminalise marriage between a person and an object.</p> <p>19. Subclause (1), paragraph (e) subparagraph (v) <i>delete</i> Rational: Consequential to the deletion of queer throughout the Bill.</p> <p>20. Subclause (1) Paragraph(e) subparagraph(vi) <i>delete</i> "pansexual" <i>insert</i> "bisexual" Rational: "Pansexual" connotes the same meaning as "bisexual".</p> <p>21. Subclause (2), lines 5 and 6, <i>delete</i> "not less than three years and not more than five years or both" and <i>insert</i> "not more than three years" Rational: To align with sentencing regime in the jurisdiction.</p> <p>22. Subclause (3), <i>delete</i> and <i>insert</i> the following: "6(3) For the avoidance of doubt "unnatural carnal knowledge" referred to in subsection (2) of section 104 includes (a) sexual intercourse between and among persons of the same sex; (b) sexual intercourse between a man and an animal or a woman and an animal; or (c) sexual intercourse between a man and an inanimate object or a woman and an inanimate object." Rational: To align with the language in section 104(2) of Act 29 and also broaden the scope to cover lesbians.</p>
<p>Clause 7</p>	<p>23. Paragraph (a), line 1, <i>delete</i> "threat or intimidation" and <i>insert</i> "threat, intimidation or inducement" Rational: To broaden the scope of the prohibited acts.</p>
<p>Clause 8</p>	<p>24. Line 3, <i>delete</i> "an offence" and <i>insert</i> "a misdemeanour" and in line 4, <i>delete</i> "of not less than one year and not more than five years" and <i>insert</i> "not more than three years".</p>

	Rational: To align with the sentencing regime in the jurisdiction.
Clause 9	<p>25. <i>Delete and insert</i> the following: “Keeping a brothel for a prohibited sexual activity 9. A person commits a misdemeanour if the person, (a) keeps or manages or assists in the management of a brothel for the purposes of a sexual activity prohibited under this Act; (b) being a tenant, lessee or occupier or person in charge of premises, knowingly permits the premises or a part of the premises to be used as a brothel for the purposes of a sexual activity prohibited under this Act; or (c) being the lessor or landlord of any premises or the agent of a lessor or landlord; (i) lets the premises or a part of the premises, with the knowledge that the premises or that part of the premises is to be used as brothel for the purposes of a sexual activity prohibited under this Act; or (ii) is wilfully a party to the continued use of the premises or a part of the premises as a brothel for the purposes of a sexual activity prohibited under this Act.”.</p> <p>Rational: To reflect rendition in section 277 of Act 29</p>
Clause 10	<p>26. Subclause (1) <i>delete</i> and <i>insert</i> the following: “10. (1) A person who publicly and wilfully does a grossly indecent act commits a misdemeanour.”.</p> <p>Rational: To reflect section 278(a) of Act 29</p> <p>27. Subclause (2), paragraphs (a), line 1, <i>delete</i> “amorous” and <i>insert</i> “romantic” Rational: To remove ambiguity.</p> <p>28. Subclause (2), paragraphs (b) line 1, <i>delete</i> “amorous” and <i>insert</i> “romantic” Rational: To remove ambiguity.</p>
Clause 12	<p>29. Clause 12- <i>delete</i> Rational: Appears to be a repetition of Clause 13</p>
Clause 13	<p>30. <i>Delete and insert</i> “Prohibition of propaganda of, promotion of and advocacy for activities directed at a child</p>

- (1) A person who,
- (a) through media, technological platform, technological account or any other means produces, procures, markets, broadcasts, disseminates, publishes or distributes; or
 - (b) uses an electronic device, the internet service, a film, or any other device capable of electronic storage or transmission to produce, procure, market, broadcast, disseminate, publish or distribute a material or information directed at a child whether directly or indirectly with intent to
 - (c) evoke the interest of the child in an activity prohibited under this Act; or
 - (d) teach the child to explore any gender or sex other than the binary category of male or female;

commits an offence and is liable, on summary conviction, to a term of imprisonment of not less than six years and not more than ten years.

(2) Where a person is convicted under subsection (1), the owner of the media, technological platform or technological account on which the material or information is produced, procured, marketed, broadcasted, disseminated, published or distributed under subsection (1) is deemed to have committed the offence unless it is proved that the owner

- (a) did not consent to, or connive at the commission of the offence; and
- (b) exercised the degree of reasonable diligence as ought in the circumstances to have been exercised to prevent the commission of the offence.

(3) Where

- (a) a body corporate is convicted under subsection (1) of this section, subsections (2), (5) and (6) of section 25 of the Interpretation Act, 2009 (Act 792) shall apply; or
- (b) an unincorporated body of persons is convicted under subsection (1) or (2) of this section, the principal officers of the body of persons, whatever name called, shall be deemed to have also committed the offence.

(4) For purposes of this section, "media" includes radio, newspaper and television;

"owner" means the legal owner or operator of the media, technological platform or technological account and, where

the media, technological platform or technological account is owned by more than one person, includes every joint owner;

"technological account" includes Facebook account, Twitter account, Instagram account and any other social media account; and

"technological platform" includes websites, Facebook, Twitter, Instagram and other social media applications and sites".

Rational: To provide clarity and align with cybersecurity law.

Clause 14	<p>31. In line 3, <i>delete</i> "five" and <i>insert</i> "three" and in line 4, delete "ten" and insert "five" Rational: To align with sentencing regime.</p>
Clause 15	<p>32. Headnotes, <i>delete</i> acronym LBTTQQAAP+ and <i>insert</i> LBTTAP+ Rational: Consequential amendment.</p>
Clause 16	<p>33. Subclause (2), line 3, <i>delete</i> "less than six years and not more than ten years" and <i>insert</i> "more than five years" Rational: To align with sentencing regime.</p>
Clause 17	<p>34. Headnote, <i>delete</i> the acronym LBTTQQAAP+ and <i>insert</i> LBTTAP+ Rational: Consequential amendment.</p> <p>35. Paragraph (f), <i>delete</i> Rational: Consequential amendment.</p> <p>36. Paragraph (h) <i>delete</i> Rational: Consequential amendment.</p> <p>37. Paragraph (i) <i>delete</i> Rational: Consequential amendment.</p> <p>38. Paragraph (k) <i>delete</i> and <i>insert</i> "a person of any other sexual orientation or in a sexual relationship that is contrary to the sociocultural relationship between a male and female." Rational: Consequential amendment.</p>
Clause 18	<p>39. Paragraph (h) <i>delete</i> Rational: Consequential amendment.</p> <p>40. Paragraph (i) <i>delete</i> Rational: Consequential amendment.</p> <p>41. Paragraph (k) <i>delete</i> and <i>insert</i> "a person of any other sexual orientation or in a sexual relationship that is contrary to the sociocultural relationship between a male and female." Rational: Consequential amendment.</p>
Clause 19	<p>42. Clause 19-<i>delete</i></p>

	Rational: Difficulty in implementation.
Clause 20	43. Clause 20- <i>delete</i> Rational: Offends Article 108 of the 1992 Constitution.
Clause 21	44. Clause 21- <i>delete</i> Rational: The Committee took cognizance of existing sentencing guidelines.
Clause 22	45. <i>Delete and insert</i> <p>“Prohibition of extra judicial treatment</p> <p>19. (1) A person who has knowledge that an offence is committed under this Act shall report the commission of the offence to a police officer, or in the absence of a police officer to a relevant authority of the community in which the offence is committed.</p> <p>(2) A relevant authority to whom a report is made under subsection (1) shall within three days of the report ensure that the report is lodged at the nearest police station.</p> <p>(3) Sections 84 to 87 of the Criminal Offences Act, 1960 (Act 29) shall, apply to a person who commits a misdemeanour if that person verbally or physically, abuses, assaults or harasses, a person</p> <p>(a) accused of an offence under this Act; or</p> <p>(b) suffering from any gender or sexual identity challenge including LGBTTAP+ or any other variant of a sexual identity challenge.</p> <p>(4) Despite subsection (1), the use of a graphic description of the behavioural pattern of a person engaged in an activity prohibited under this Act</p> <p>(a) for purposes of education or instruction; or</p> <p>(b) in response to any form of advocacy or activism does not constitute abuse, assault or harassment”.</p>
Clause 23	46. Clause 23- <i>delete</i> Rational: Consequential amendment relating to the rotational for deleting “intersex”.
Clause 24	47. Line 1, <i>delete</i> “Minister responsible” and insert “Ministers responsible” Rational: For clarity
	48. In lines 2 and 3, <i>delete</i> “Gender, Children and Social Protection and the Minister responsible for” and <i>insert</i> “Health and Gender, Children, Social Protection” Rational: For consistency in the event of a change in the designation of the Ministry.
#	Interpretation section <p>Interpretation</p> <p>In this Act, unless the context otherwise requires,</p>

“ally” means a person who produces, procures, markets, broadcasts, disseminates, publishes or distributes a material with intent to

- (a) promote an activity prohibited under this Act;
- (b) evokes the interest of a child in an activity prohibited under the Act; or
- (c) teach a child to explore a gender other than the binary category of male and female;

“approved medical help” includes psychiatric service, psychological service, psycho-social counselling service and any other service provided to a person engaged in, involved in or associated with a sexual activity prohibited under this Act to enable the person overcome any biological or psychological challenge related to a sexual activity prohibited under this Act;

“approved medical treatment” includes endocrinological service, medical service, surgical service or any other service provided to a person engaged in, involved in or associated with a sexual activity prohibited under this Act to enable the person overcome any biological, psychological or emotional challenge related to a sexual activity prohibited under this Act;

“asexual” means an individual who generally does not have sexual desire or attraction to any group of persons but does not include a celibate;

“bi-sexual” means a person who is attracted to persons who are of the same sex as that person and to persons who are of the opposite sex;

“child” means a person below the age of eighteen years;

“creative arts industry” includes cultural sites, visual arts, traditional cultural expressions, performing arts, music, publishing and literary arts, audio visual, new media, design and creative services and research and record keeping;

“gay” means a man who is primarily attracted to men and engages in sexual activities with men;

“gender” means the binary sex categories of male and female assigned at birth, and the behavioural, cultural and psychological traits typically associated with either sex, but does not include transgender, gender non-conformity or non-binary categories;

“family values” include

- (a) respect for the sanctity of marriage as a lifelong relationship between a man and a woman, each of whose gender is assigned at birth;
- (b) **the recognition**
 - (i) **of the family as the basic unit of the Ghanaian society;** and
 - (ii) that the ultimate purpose for the role of Government in protecting and advancing the family as the basic unit of society is to safeguard and promote the best interest of children;
- (c) the obligation of parents, guardians and teachers to ensure that children and young persons receive special protection against exposure to physical, emotional and moral hazards;

and

(d) the recognition in Ghanaian ethnic groups, of 'gender' as a social construct to only male and female humans each of whose gender is assigned at birth;

"lesbian" means a woman who is primarily attracted to women and engages in sexual activities with women;

"**LGBTAP+**" includes Lesbian, Gay, Bisexual, Transgender, Transsexual, Questioning, Intersex, Ally, Asexual, Pansexual and any other sociocultural **orientation** of sex and sexual relationship that is contrary to the sociocultural **orientation** of male and female assigned at birth;

"**marriage**" means a customary law union, a union by ordinance or a Mohammedan union between a man and a woman;

"**Minister**" means the Minister responsible for Culture;

"*human sexual rights*" means the right of a person

(a) with the binary sex categorisation of male and female assigned at birth to the

(i) physical, emotional and psychological wellbeing and enhancement; or

(ii) healthy growth and development of the person especially where the person is an adolescent or a youth;

(b) to positive educational and instructional materials, activities and actions relating to the reproductive health of an adolescent or youth whose gender is assigned at birth, for purposes of preparing the adolescent or youth for adulthood and parenthood but does not include

(i) any material on comprehensive sexuality education or any other variant of comprehensive sexuality education by whatsoever name called; or

(ii) any matter pertaining to sexual orientation and gender identity or reproductive sexual rights as defined to include the promotion of LGBTAP+ tendencies and behavioural activities or conduct among children, adolescents and youth; and

(c) under the customary law of a particular ethnic community, relating to the puberty rites of passage of an adolescent or youth whose gender is assigned at birth;

"questioning" means the process engaged by a person by the use of social media or other means to explore or discover the sexual orientation, gender identity or gender expression of the person;

"sex" means the binary categories of male and female assigned at birth and excludes any non-binary category;

"sexual activity" used in relation to an offence under this Act means an act prohibited under paragraph (a) of subsection

(3) of section 6 of this Act;
“transgender” means a person whose gender identity differs from the sex of the person at birth; and
“transsexual” means a person who voluntarily
(a) commences a medical process including surgery or hormonal manipulation; or
(b) undergoes a medical process including surgery or hormonal manipulation to permanently change the gender identity of the person.

Consequential amendments

2. (a) The Extradition Act, 1960 (Act 22) is amended in the First Schedule by the addition of the following after the paragraph for “Cybercrime and cyber offences”

“LGBTAP+ offences

An offence under the Promotion of Human Sexual Rights and Family Values Act, 2023 (Act.....).”

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