



Sangguniang Panlalawigan

BATAAN CAPITOL, BALANGA CITY



EXCERPT FROM THE MINUTES OF THE 10TH REGULAR SESSION VIA ZOOM MEETING OF THE SANGGUNIANG PANLALAWIGAN OF BATAAN HELD AT THE PROVINCE OF BATAAN ON OCTOBER 25, 2021

PRESENT:

Hon. Ma. Cristina M. Garcia, Vice Governor and Presiding Officer

FIRST DISTRICT:

Hon. Benjamin C. Serrano, Jr., Board Member
Hon. Jamar L. Gaza J.D., Board Member
Hon. Reynaldo T. Ibe, Jr., Board Member
Hon. Godofredo B. Galicia, Jr., M.D., Board Member
Hon. Maria Khristine G. Dela Fuente, Board Member

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RECORDS DIVISION
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SECOND DISTRICT:

Hon. Maria Margarita R. Roque, Board Member
Hon. Manuel N. Beltran, Board Member
Hon. Edgardo P. Calimbas, Board Member
Hon. Jose C. Villapando, Sr., Board Member
Hon. Romano L. Del Rosario, Board Member

Hon. Doroteo M. Austria, Board Member (FABC President)
Hon. Noel Joseph L. Valdecafias, Board Member (PCL President)
Hon. Precious D. Manuel, Board Member (SKF President)
Hon. Rosita N. Sison, Board Member (IPM Representative)

ABSENT:

None

ORDINANCE NO. 16
Series of 2021

"AN ORDINANCE PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION (SOGIE) AND PROVIDING PENALTIES THEREFOR."

Authored by: HON. JOMAR L. GAZA J.D.
Sponsored by: HON. MARIA KRISTINE G. DELA FUENTE

Section 1. Short Title. - This Act shall be known as the "Bataan SOGIE Non-Discrimination Act".

Section 2. Declaration of Policy. - The State recognizes the fundamental right of every person regardless of sex, age, class, status, ethnicity, color, disability, religious, and political beliefs, sexual orientation, or gender identity or expression, to be free from any form of discrimination.

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Provincial Governor

"EXCELLENT PUBLIC SERVICE TOWARDS A BETTER QUALITY OF LIFE FOR ALL"

It shall therefore intensify its *efforts* to fulfill its duties under the Equal Protection Clause and the Bill of Rights provisions of the Philippine Constitution, and international and domestic laws to respect, protect, and fulfill the rights and dignity of every individual.

Towards this end, the State shall exert *efforts* to address all forms of discrimination, marginalization and violence on the basis of sexual orientation, or gender identity or expression, and to promote human dignity as enshrined in the United Nations Universal Declaration on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, particularly the General Recommendation No. 28 on Non-discrimination Based on Sexual Orientation and Gender Identity, Convention on the Rights of the Child, International Covenant on Economic, Social and Cultural Rights, and all other relevant and universally-accepted human rights instruments and other international conventions to which the Philippines is a signatory. In the enforcement of this Ordinance, all due respect shall be accorded to the fundamental right of parents in the upbringing of their children in accordance with their religious convictions.

Section 3. Definition of Terms. - As used in this Ordinance, the following terms are defined as follows:

- a. Child refers to a person below eighteen (18) years of age or older but who is incapable of taking care of oneself as defined under Republic Act No. 7160, as amended;
- b. Discrimination refers to any distinction, exclusion, restriction, or preference which is based on any ground such as sex, sexual orientation, gender identity or expression, and which has the purpose or *effect* of nullifying or impairing the recognition, access to, enjoyment, or exercise by all persons on an equal footing of all rights and freedoms. The actual sex, sexual orientation, or gender identity or expression of the person subjected to discrimination shall not be relevant for the purpose of determining whether an act of discrimination has been committed;
- c. Gender Expression refers to the way a person communicates gender identity to others through behavior, clothing, hairstyles, communication or speech pattern, or body characteristics;
- d. Gender Identity refers to the personal sense of identity as characterized, among others, by manner of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with the physiological characteristics of the opposite sex, in which case this person is considered transgender;
- e. Hate Crimes refer to criminal offenses committed against a person or a group of persons, or against such targeted person's or group's honor or property, motivated in whole or in part by the offender's bias against gender, sexual orientation, gender identity or expression;

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- f. LGBTQ Community refers to the collective of persons who are male and female homosexuals (gays and lesbians, respectively), bisexual, and transgender;
- g. Marginalization refers to a condition where a whole category of people is excluded from useful and meaningful participation in political, economic, social, and cultural life;
- h. Sex refers to male, female, or intersex. Intersex refers to people born with the sex characteristics (including genitals, gonads and chromosome patterns) that do not fit typical binary notions of male or female bodies, all of which are natural bodily variations along a spectrum;
- i. Sexual Orientation refers to the direction of emotional, sexual attraction, or conduct towards people of the same sex (homosexual orientation) or towards people of both sexes (bisexual orientation), or towards people of the opposite sex (heterosexual orientation) or to the absence of sexual attraction (asexual orientation); and
- j. Stigma refers to the dynamic devaluation and dehumanization of an individual in the eyes of others which may be based on attributes that are arbitrarily defined by others as discreditable or unworthy, and which result in discrimination when acted upon.

Section 4. Discriminatory Practices. - It shall be unlawful for any person, natural or juridical, to engage in discrimination as defined herein, which shall include:

- a. Denying access to public services to any person on the sole basis of sexual orientation or gender identity or expression;
- b. Including sexual orientation or gender identity or expression, as well as the disclosure of sexual orientation, in the criteria for hiring, promotion, transfer, designation, work assignment, re-assignment, dismissal of workers, and other human resource movement and action, performance review, and in the determination of employee compensation, access to career development opportunities, training, and other learning and development interventions, incentives, privileges, benefits or allowances, and other terms and conditions of employment: Provided, that, this provision shall apply to employment and skills training in both the private sector and public service; Provided, further, That this prohibition shall likewise apply to the contracting and engaging of the services of juridical persons;
- c. Refusing admission or expelling a person from any educational or training institution on the basis of sexual orientation or gender identity or expression, including discriminating against a student or trainee due to the sexual orientation or gender identity or expression of the student's parents or guardian: Provided, however, that the right of educational and training institutions to determine the academic qualifications of their students or trainees shall be duly upheld;

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- d. Imposing disciplinary sanctions, penalties harsher than customary or similar punishments, requirements, restrictions or prohibitions that infringe on the rights of the students on the basis of sexual orientation or gender identity or expression, including discriminating against a student or trainee due to the sexual orientation or gender identity or expression of the student's parents or guardian;
- e. Refusing or revoking the accreditation, formal recognition, registration or plan to organize of any organization, group, political party, institution, or establishment in educational institutions, workplaces, communities, and other settings, solely on the basis of the sexual orientation or gender identity or expression of their members or of their target constituencies;
- f. Denying a person access to public or private medical and other health services open to the general public on the basis of such person's sexual orientation or gender identity or expression;
- g. Denying a person access to or the use of establishments, facilities, utilities, or services, including housing, open to the general public on the basis of sexual orientation and gender identity or expression: Provided, that, the act of giving inferior accommodations or services shall be considered a denial of access or use of such facility or service: Provided, further, that establishments will make available the existing toilets with facilities designated for persons with disabilities also as gender neutral toilets: Provided, finally, that this prohibition covers acts of discrimination against juridical persons solely on the basis of the sexual orientation or gender identity or expression of their members or of their target constituencies;
- h. Subjecting or forcing any person to undertake any medical or psychological examination to determine or alter, or both, the person's sexual orientation or gender identity or expression without the expressed approval of the person involved, except in cases where the person involved is a minor and below the age of discernment in which case prior approval of the appropriate Family Court shall be required;
- i. Harassment, coercion, or threats committed by members of institutions involved in the enforcement of law and the protection of rights of any person on the basis of sexual orientation or gender identity or expression. Among other cases, prohibited acts under this section include arresting or placing under custody, and subjecting a person to extortion, physical, verbal abuse, or sexual abuse, regardless of whether such arrest has legal or factual basis. Harassment, coercion, or threat of juridical persons on the basis of the sexual orientation or gender identity or expression of their members, stockholders, benefactors, clients, or patrons is likewise covered by this provision;
- j. Publishing information intended to "out" or reveal the sex, sexual orientation, or gender identity of persons without their consent, when such has not been made known by the person/s concerned, and has been made with malicious intent or is primarily motivated by a desire for commercial profit.

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2nd and Succeeding Offenses : Up to 30-day imprisonment and/or fine of Five Thousand Pesos (PS,000.00), at the discretion of the court.

If the violation or offense is committed by a corporation, partnership, association or other juridical entities, the penalty provided for in this section shall be imposed upon the directors, officers, employees or other officials or persons therein responsible for the offense without prejudice to the civil liabilities arising from the criminal offense.

If a graver offense motivated by bias, prejudice, or hatred against sexual orientation or gender identity or expression is committed, such shall be meted the corresponding maximum penalties regardless of the number of violations already committed.

Nothing in this Ordinance shall preclude the victim from instituting a separate and independent action for damages and other affirmative reliefs or such other cases for violation of other applicable penal laws.

The penalties provided under this Section shall be meted without prejudice to the imposition of administrative liability for government officials and employees.

Section 6. Separability Clause. - If any provision of this Ordinance is declared unconstitutional or otherwise invalid, the validity of the other provisions shall not be affected thereby.

Section 7. Repealing Clause. = All prior ordinances or parts thereof inconsistent with this Ordinance are hereby repealed or modified accordingly.

Section 8. Effectivity. - This Ordinance shall take effect after compliance with the relevant requirements of posting and/or publication as provided under the Local Government Code of 1991.

APPROVED UNANIMOUSLY.

MA LILIOQOCONER
Assistant Secretary to the SP

BENJAMIN C. SERRANO, JR.
Board Member

JOMAR L. GAZA J.D.
Board Member


REYNALDO T. IBE, JR.
Board Member

GODOFREDO B. GALICIA, JR., M.D.
Board Member

ALBERT S. GARCIA
Provincial Governor


MARIA KHRISTINE G. DELA FUENTE
Board Member


MARIA MARGARITA R. ROQUE
Board Member


MANUEL N. BELTRAN
Board Member

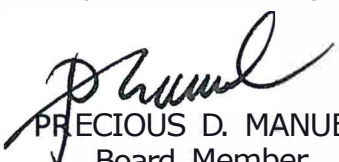

EDGARDO P. CALIMBAS
Board Member


JOSE C. VILLAPANDO, SR.
Board Member


ROMANO L. DEL ROSARIO
Board Member


DOROTEO M. AUSTRIA
Board Member
(FABC President)


NOEL JOSEPH L. VALDECANAS
Board Member
(PCL President)

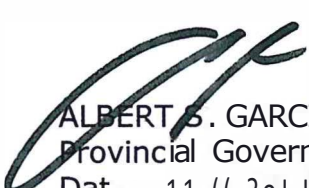

PRECIOUS D. MANUEL
Board Member
(SKF President)

Rofof1 N
Board Member
(IPM Representative)

ATTESTED:


MA. CRISTINA M. GARCIA
Vice Governor
(Presiding Officer)

APPROVED:


ALBERT S. GARCIA 4/
Provincial Governor
Date: 11-11-2021









