



# Sangguniang Panlalawigan

BATAAN CAPITOL, BALANGA CITY



EXCERPT FROM THE MINUTES OF THE 105<sup>TH</sup> 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. Jomar L. Gaza J.D., Board Member
- Hon. Reynaldo T. Ibe, Jr., Board Member
- Hon. Godofredo B. Galicia, Jr., M.D., Board Member
- Hon. Maria Kristine G. Dela Fuente, Board Member

SANGGUNIANG PANLALAWIGAN  
CAPITOL BATAAN

RELEASED  
RECORDS DIVISION  
NOV 15 2021

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. Valdecañas, 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

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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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Provincial Governor

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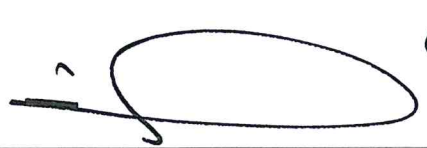
- f. LGBTQ Community refers to the collective of persons who are male and female homosexuals (gays and lesbians, respectively), bisexual, and transgender;
- g. Marginalization refers to a condition where a whole category of people is excluded from useful and meaningful participation in political, economic, 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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- k. Engaging in public speech, except religious speech meant to shame, insult, vilify, or which tends to incite or normalize the commission of discriminatory practices against LGBTs, and which acts or practices in turn, intimidate them or result in the loss of their self-esteem;
- l. Subjecting persons or groups of persons to harassment generally defined as such unwanted conduct, pattern of conduct, act, or series of acts which tend to annoy, insult, bully, demean, offend, threaten, intimidate, alarm, or create a hostile or emotionally distressing environment, or put them in fear of their safety; and which behavior is motivated in whole or in part by the offender's bias, belief, or perception regarding the offended party's gender, sexual orientation, gender identity or expression, regardless of whether the belief or perception is correct. Such prohibited act may include physical assault, stalking, or making derogatory comments, slurs or lewd propositions, and may be conducted through any form of medium including, but not limited to, visual representation, broadcast communication, correspondence or communication through mail or any telecommunication device, or through the internet or cyberspace;
- m. Subjecting any person to gender profiling or to any investigatory activities, which include (i) unnecessary, unjustified, illegal, or degrading searches to determine whether an individual is engaged in an activity presumed to be unlawful, immoral, or socially unacceptable; (ii) recording and analyzing a person's psychological and behavioral characteristics to make generalizations about a person's sexuality or to assist in identifying a particular subgroup of people's sexual orientation or gender identity;
- n. Preventing a child under parental authority, custody, or guardianship from exhibiting or expressing one's sexual orientation or gender identity; or manifesting rejection of such child's sexual orientation or gender identity or expression by inflicting or threatening to inflict bodily or physical harm against the child or by causing mental or public ridicule or humiliation, repeated verbal abuse, or other similar means, or in general, commit any act or omission prejudicial to the welfare and interest of the child as a result of the bias against the sexual orientation or gender identity of the child; and
- o. Subjecting a person to any other analogous acts that shall have the effect or purpose of impairing or nullifying the enjoyment, recognition, or exercise of a person's rights and freedoms.

**Section 5. Penalties.** - A person who commits any discriminatory practice described in Section 4 of this Act shall, upon conviction, be penalized as follows:

1<sup>st</sup> Offense : up to 15-day imprisonment and/or a fine of Three Thousand Pesos (P3,000.00), at the discretion of the court;

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ALBERT S. GARCIA  
Provincial Governor

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2<sup>nd</sup> and Succeeding Offenses : Up to 30-day imprisonment and/or fine of Five Thousand Pesos (P5,000.00), 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. LILIOSA B. OCONER  
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

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MARIA KRISTINE G. DELA FUENTE  
Board Member

  
MARIA MARGARITA R. ROQUE  
Board Member

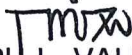
  
MANUEL N. BELTRAN  
Board Member

  
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. VALDECAÑAS  
Board Member  
(PCL President)

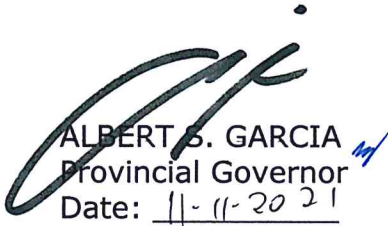
  
PRECIOUS D. MANUEL  
Board Member  
(SKF President)

  
ROSITA N. SISON  
Board Member  
(IPM Representative)

ATTESTED:

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

APPROVED:

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





