

# Sangguniang Panlalawigan

BATAAN CAPITOL, BALANGA CITY



**EXCERPT FROM** THE MINUTES OF THE SPECIAL SESSION OF THE SANGGUNIANG PANLALAWIGAN OF BATAAN HELD AT THE BATAAN LIBRARY AND MUSEUM, CAPITOL COMPOUND, CITY OF BALANGA, BATAAN, ON APRIL 10, 2018

#### PRESENT:

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

### FIRST DISTRICT:

Hon. Benjamin C. Serrano, Jr., Board Member

Hon. Rolando Z. Tigas, Board Member

Hon. Reynaldo T. Ibe, Jr., Board Member

### SECOND DISTRICT:

Hon. Jovy Z. Banzon, Board Member

Hon. Manuel N. Beltran, Board Member

Hon. Edgardo P. Calimbas, Board Member

Hon. Dante R. Manalaysay, Board Member

Hon. Jose C. Villapando, Sr., Board Member

Hon. Doroteo M. Austria, Board Member (FABC President)

Hon. Noel Joseph L. Valdecañas, Board Member (PCL President)

### ABSENT:

Hon. Aristotle J. Gaza, Board Member

Hon. Dexter B. Dominguez, Board Member

Hon. Danilo B. Salonga, Board Member (IPM Representative)

### PROVINCIAL ORDINANCE NO. 01 SERIES OF 2018

AN ORDINANCE ENACTING THE BATAAN CHILDREN'S WELFARE CODE, ESTABLISHING AND INSTITUTIONALIZING THE PROVINCIAL COUNCIL FOR THE WELFARE OF CHILDREN, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

Be it enacted by the Members of the Sangguniang Panlalawigan of Bataan in a session assembled:

### **CHAPTER 1 GENERAL PROVISIONS**

#### Section 1. TITLE

This Ordinance shall be known as the "Bataan Children's Welfare Code".

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

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Balanga City, Bataan, Philippines

# Section 2. DECLARATION OF POLICIES AND PRINCIPLES.

In unity with the Filipino people and the State, the Province of Bataan recognizes that the child is an important asset of the nation, and every effort should be exerted to promote his welfare and enhance his opportunities for a productive and happy life. In furtherance of this recognition, the Province of Bataan hereby adopts these principles as part of its governmental policies;

- a) The Province recognizes the vital role of the child in society and therefore shall promote and protect their physical, moral, spiritual, intellectual and social well-being and shall encourage child's involvement in public and civic affairs as enshrined in Article II, Section 13 of the 1987 Constitution of the Republic of the Philippines;
- b) The Province shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development consistently with the State's mandate under Article XV, Section 3(2) of the Constitution;
- c) The Province, through the Sangguniang Panlalawigan, has the duty to provide for the care of paupers, the aged, the sick, person of unsound mind, abandoned minors, abused children, disabled person, juvenile delinquents, drug dependents, and other needy and disadvantaged person, particularly children and youth below eighteen (18) years of age as provided for under Section 468, paragraph 4(vi) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991;
- d) The child has the rights to survival, development, protection and participation in accordance with the United Nations Convention on the Rights of the Child. These rights are interdependent, indivisible and should be respected, promoted and protected so that the child can enjoy a full life;
  - The child is a fully functioning human being capable of participating in proceedings affecting them, within their evolving capacities;

All rights apply to children without discrimination, irrespective of the child's or his parent's or legal guardian's nationality, identity, race, color, age, sex, language, religion, political or other opinion, ethnic or social origin, property, disability, paternity and filiations, birth or other status;

- g) The best interest of the child shall be the paramount consideration in all matters affecting them. All doubts in the interpretation of the provisions of this Code, including its Implementing Rules and Regulations, shall be resolved in the best interest of the child;
- h) The child is different from the adult and they have different capacities and needs. The child is largely influenced and molded by social experiences and natural environment encountered in this critical stage of human development. The Province shall ensure and promote a child friendly environment;

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- The Province shall defend the rights of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and discrimination and other conditions prejudicial to their development;
- The Province of Bataan hereby adopts and declares the month of November of every year as Children's Month.

### Section 3. DEFINITION OF TERMS.

For the purpose of the Bataan Children Welfare Code, the following terms shall be understood to mean as follows:

- a) Children refers to person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation, or discrimination because of a physical, mental disability or condition;
- Child Labor any work that subjects a child to economic exploitation, or that interferes with the child's education, or that harms the child's health, or physical, mental, spiritual, moral, or social development;
- Child in Conflict with the Law (CICL) refers to a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws;
- d) Diversion refers to an alternative, child-appropriate process of determining the responsibility and treatment of a child in conflict with the law on the basis of the child's social, cultural, economic, psychological or educational background without resorting to formal court proceedings;
  - **Diversion Program** refers to the program that the child in conflict with the law is required to undergo after the child is found responsible for an offense without resorting to formal court proceedings;

Children in Need of Special Protection (CNSP)— refers to the following:

- a. Child-victims/survivors of physical, psychological and sexual abuse;
- Neglected and Abandoned Children, either physically or economically;
- c. Children Using Addictive/Harmful Substances;
- d. Children with Disabilities;
- e. Children in Conflict with the Law (CICL);
- f. Working Children.

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- g) Drug Dependence - As based on the World Health Organization definition, it is a cluster of physiological, behavioral and cognitive phenomena of variable intensity, in which the use of psychoactive drug takes on a high priority thereby involving, among others, a strong desire or a sense of compulsion to take substance and the difficulties in controlling substance-taking behavior in terms of its onset, termination, or levels of use;
- Children with Disabilities refers to children suffering from h) restriction of different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being;
- Commercial Sexual Exploitation of Children (CSEC) is a i) commercial transaction that involves the sexual exploitation of the child;
- Council Provincial Council for the Welfare of Children; j)
- k) Guardian - a person who acts for another whom the law regards as incapable of managing his own affairs;
- 1) NGOs - Non-Government Organizations;
- Parents natural and/or adoptive mother and/or father of a child; m)
- n) POs - People's Organizations;
- o) Physical Abuse of a Child - any act of violence that results in injury or death of a child such as, but not limited to beating, mutilation, piercing or wounding;
- Province the Provincial Government of Bataan; p)
- Sexual Abuse of a Child any contact or interaction between a child q) and an older or more knowledgeable child or adult where the child is used an object for the older child or adult's sexual needs, such as but not limited to rape, acts of lasciviousness and sexual harassment;
- r) UNCRC - the United Nations Convention on the Rights of the Child;
- Volatile Substance refers to any stuff used as thinner, solvent, s) adhesive or any product which may contain substances that affects the normal function of the child when ingested or inhaled;
- Corporate Social Responsibility is a form of corporate selft) regulation integrated into a business model.

### **CHAPTER II** RIGHTS OF THE CHILD

Section 4. SURVIVAL RIGHTS.

Right to Life. Every child has the inherent right to life;

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- Right to Adequate Standard of Living. Every child has the right to b) a standard of living adequate to his physical, mental, spiritual, moral and social development;
- Right to Health. The child has a right to the highest standard of c) health and medical care attainable;
- Right to Parental Care and Support. The child has the right to a d) wholesome family life that will provide him with love, care, understanding, guidance counseling, moral and material security;
- Right to a Name, Nationality and Identity. The child has a right to e) be registered immediately after birth and shall have the right to a name and a nationality. The child also has a right to preserve his identity, including his name, nationality and family relations.

#### Section 5. **DEVELOPMENTAL RIGHTS.**

- Right to Education. The child has the right to education which shall a) include the right to avail of Early Childhood Care and Development (ECCD) programs, primary, secondary and tertiary education commensurate to the capacity of the child;
- b) Right to Information. The child has the right to appropriate information on matters of interest to them, to obtain information and ideas of all kinds, either orally or in writing or in print, in the form of art, or any other form of media of the child's choice especially those aimed at the promotion of his social, spiritual and moral well-being and physical and mental health;
- Right to Leisure, Recreational and Cultural Activities. The child c) has the right to rest, to engage in any leisurely or recreational activities appropriate to his age and to participate freely in culture and arts.

#### Section 6. PARTICIPATION RIGHTS.

Right to Opinion and Freedom of Expression. The child has the a) right to freely express his views in all matters affecting him;

Rights to Freedom of Thought, Conscience and Religion. children have the right to freedom of thought, conscience and religion, subject to appropriate guidance by the parents and/or guardians;

Right to Enjoy and Practice His Own Culture and Language. Children shall have the right to exercise, profess and practice their own culture and to use their own language;

Right of Freedom of Association. The child has the right to meet d) other persons, to organize, form or join associations and to freedom of assembly;

Right to Privacy. Children have the right to protection from interference of their privacy, family, home and correspondence, except under circumstances that would lead a reasonable person to believe that the safety and security of the child, the family and the community is under threat.

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#### Section 7. PROTECTION RIGHTS OF THE CHILD.

- Right to Protection Against Physical Abuse. The child has the a) right to protection against physical abuse, violence, injury or maltreatment;
- Right to Protection Against Emotional or Psychological Abuse. b) The child has the right to protection against mental, psychological and emotional abuse caused by violence, injury or maltreatment;
- Right to Protection Against Sexual Abuse. The child has the right c) to protection against rape, incest, sexual harassment, acts of lasciviousness, seduction and other forms of sexual abuse and violence;
- Right to Protection Against Neglect and Abandonment. The child d) has the right to quality care by his parents or guardians and to be protected against neglect and abandonment;
- Right to be Protected from Drugs, Cigar, Cigarette, Liquor e) Intoxicating Beverages and Other Substances. The child has the right to be protected from the use and exposure of narcotic and psychotropic drugs, cigar, cigarette, liquor, intoxicating beverages, volatile substances, and from being involved in the production or distribution thereof;
- Right to Protection of the Working Child. The child has the right to f) be protected from economic exploitation and from performing any work that is likely to be hazardous or interfere with the child's health and his mental, spiritual, moral or social development;
  - Right to Periodic Review of Treatment if Placed Under Protective Custody. The child has the right to be protected from any harmful or harsh treatment;

Right to Special Protection of Children with Disability. Children have the right to special care, education and training to help them enjoy a full and decent life and achieve the greatest degree of selfreliance and social integration;

Right of Children In Conflict With the Law (CICL). Every child in conflict with the law shall have the following rights, including but not limited to:

- The right not to be subjected to torture or other cruel, inhuman a. or degrading treatment or punishment;
- b. The right not to be imposed a sentence of capital punishment or life imprisonment, without the possibility of release;

The right not to be deprived, unlawfully or arbitrarily, of his c. liberty; detention or imprisonment being a disposition of last resort, and which shall be for the shortest appropriate period of time;

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- d. The right to be treated with humanity and respect, for the inherent dignity of the person, and in a manner which takes into account the needs of a person of his age. In particular, a child deprived of liberty shall be separated from adult offenders at all times. No child shall be detained together with adult offenders. He shall be conveyed separately to or from court. He shall await hearing of his own case in a separate holding area. A child in conflict with the law shall have the right to maintain contact with his family through correspondence and visits, save in exceptional circumstances;
- The right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his liberty before a court or other competent, independent and impartial authority, and to a prompt decision on such action;
- f. The right to bail and recognizance, in appropriate cases;
- g. The right to testify as a witness in his own behalf under the rule on examination of a child witness;
- The right to have his privacy respected fully at all stages of the proceedings;
- The right to diversion if he is qualified and voluntarily avails of the same;
- j. The right to be imposed a judgment in proportion to the gravity of the offense where his best interest, the rights of the victim and the needs of society are all taken into consideration by the court, under the principle of restorative justice;
- k. The right to have restrictions on his personal liberty limited to the minimum, and where discretion is given by law to the judge to determine whether to impose fine or imprisonment, the imposition of fine being preferred as the more appropriate penalty;
- In general, the right to automatic suspension of sentence;
- The right to probation as an alternative to imprisonment, if qualified under the Probation Law;
- The right to be free from liability for perjury, concealment or misrepresentation; and
- o. Other rights as provided for under existing laws, rules and regulations particularly Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006, as amended by R.A. No. 10630, the relevant provisions of which are hereby adopted and incorporated in this Code. (See Annex A)

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j) Rights to be Protected Against All Forms of Commercial Sexual Exploitation. The child has the right to be protected from child prostitution, pornography, sex tourism and other forms of commercial sexual exploitation including those carried out through webbased/online platforms;

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k) Rights to Protection from Other Forms of Exploitation. The child has the right to be free and to be protected from all other forms of exploitation prejudicial to any aspects of the child's welfare.

The aforementioned rights of the child may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

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# CHAPTER III SOCIAL RESPONSIBILITIES

### Section 8. RESPONSIBILITIES OF THE CHILD.

Every child shall endeavor to become an obedient, and responsible, lawabiding member of the society, and therefore shall:

 Strive to lead an upright and virtuous life, and develop a clean conscience;

 Love, respect, and obey his parents, elderly, government and school authorities;

Engage in productive activities;

 Participate actively in civic affairs and in the promotion of the general welfare;

Observe human rights and respect for freedom, and foster cooperation with other members of the society in the pursuit of amity and peace;

Desist from the illicit use, production, and trafficking of narcotic drugs and psychotropic substances and to report to the concerned authorities should any person recruit or attempt to influence him;

g. Choose the right peer groups, affiliations and associations including proper kind of entertainment, hobbies and activities;

 Cooperate with the competent authorities in the treatment and other services being provided to him;

 Abstain from any activity that is illegal and forbidden by law and other activities that would hamper his development.

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## Section 9. RESPONSIBILITIES OF THE PARENTS AND GUARDIANS.

To ensure the survival of the child, all parents and guardians shall perform the following responsibilities:

### a. Pre-Natal Care

- All person who intend to have a child shall exercise responsible family planning methods;
- All pregnant and expectant mothers, together with the father shall undergo pre-natal evaluation and services.

### b. Post-Natal Care/Maternal and Child Care

- Mothers and their babies shall undergo post-natal and neo-natal check-ups;
- All newborn are initiated to breastfeeding within one hour after birth and exclusively breastfed for six (6) months;
- All infants are given timely, adequate and safe complementary foods and continued breastfeeding up to two (2) years and beyond;
- Parents and guardians shall ensure that their children are immunized against all childhood diseases;
- Parents and guardians shall keep their children in their custody and shall provide adequate support for their food, clothing, shelter, education, medical and other needs;
- 6) Parents and guardians shall submit their children to Newborn Screening the soonest time possible after birth.

Child Development – To ensure that the child receives a wholesome family life that will foster physical, moral, spiritual, intellectual and social well-being, parents, guardians and persons who are taking care of the child shall:

- Instill proper values and virtues to the child;
- Provide the basic needs of the child such as food, clothing, basic education and decent living condition;
- Provide the child the opportunity to express his views in all matters affecting his beliefs, religion, and other information concerning their development;
- Educate the children about their history, culture, customs and tradition;

Provide the child the opportunity to interact with any individual and/or participate in organizations that can promote and develop his potentials, well-being and identity;

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- Educate their children about safety measures against any form of abuse;
- Give proper guidance to their children on the access and utilization of any information derived from the multi-media.

# d. Child Protection from Abuse and Exploitation

- Parents/Guardians shall be responsible for ensuring that their children are not involved in any activity which may abuse their rights;
- It shall be the duty of the parents/guardians of children with disabilities to ensure that he is given special care and intervention by appropriate institutions, commensurate to their resources.

# Section 10. RESPONSIBILITIES OF THE LOCAL GOVERNMENT UNITS.

The LGUs shall utilize all avenues and resources available to promote, and safeguard the rights and welfare of the children. It shall encourage all sectors including the multi-media to exercise and promote guidelines that promote and respect the rights of the child.

## a. Child Care and Survival

- Ensure the provision of all services to every child and those services for his welfare such as but not limited to:
  - Ensure that no child is deprived of his right to proper health care services and pursue full implementation of this right. The Province shall place special emphasis on the provision of primary and preventive health care, public health education and the reduction of infant mortality. It shall also encourage inter-city and inter-municipality cooperation in this regard;
  - Ensure that all children are registered at birth, shall provide adequate assistance and protection with a view of reestablishing his or her family if necessary.
- Provide appropriate interventions and case dispositions to Children in Conflict with the Law such as Diversion and Intervention Programs.

### b. Child Development

Ensure the proper development of the child and shall formulate and adopt programs and policies that would:

 Ensure that primary and secondary education is free and compulsory;

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- Make certain that children with disabilities have effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social development;
- Offer different alternative learning methods accessible to every child;
- Ensure the implementation of laws relative to the mobility of children with disability;
- Provide administrative and financial support to schools and LGUs within its jurisdiction in the promotion of recreational, cultural and artistic activities for children;
- Ensure the functionality of the Local School Board and Local Health Board;
- Ensure that children participate in policy and decision-making processes of LGUs at all levels relative to their welfare;
- 8) Encourage the preservation of culture, religion and language of children belonging to indigenous groups.

#### c. Child Protection

- Promote and ensure the right of every child to protection from any form of abuse;
- Ensure the effective implementation of laws pertaining to Child Protection including the establishment of systems in monitoring Child Labor and Trafficking;
- Establish monitoring system for Child Labor and Trafficking;
- 4) Adopt measures to ensure that all business establishments in the province including hotels, lodging, inns and bars would not be used for prostitution, and shall not employ children;
- Protect the child from all forms of sexual exploitation and abuse and shall take all appropriate measures to prevent the same;
- Educate law enforcers about the provisions of all child protection laws;
- Establish a monitoring mechanism for incident of Children in Need of Special Protection;
- Ensure child's protection from physical and sexual abuse.

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- Establishment of comprehensive psychosocial interventions a) and provide necessary support of the child and those who have the care of the child.
- Adopt a mechanism for monitoring incidents of child abuse; b)
- Institutionalize prevention programs against child abuse. c)

### Section 11. RESPONSIBILITIES OF PRIVATE AND PUBLIC DOCTORS, MIDWIVES, MEDICAL PRACTITIONERS AND HEALTH CARE PROVIDERS.

- It shall be the responsibility of all doctors, midwives and other health a) care providers to educate parents on proper care and nutrition for the child's well-being;
- They shall also exercise due diligence in ensuring the safe delivery of b) the child and his proper physical and mental development;
- The physician, midwife, skilled birth attendants in attendance at birth of the newborn shall have the duty to register the birth of the newborn child.

# Section 12. RESPONSIBILITIES OF EDUCATIONAL INSTITUTIONS.

In addition to the role of all educational institutions to impart knowledge and skills to their students, they shall likewise institute programs and services that will include proper values formation:

Educational institutions from the primary to the tertiary level shall a) provide creative, innovative and appropriate recreational, cultural and artistic activities to develop the child's full potentials and talents. Elementary educational institution shall see to it that the basic rights of the child are incorporated in the elementary curriculum;

All educational institutions shall maintain quality education and use child-friendly methods in teaching the child;

- All educational institutions shall ensure the safety of children within and c) outside school premises during school tours and authorized school activities;
- School Authorities shall ensure to forbid the sale of prohibited products d) to children within their premises and area of jurisdiction;
- All educational institutions shall give their full support to student body e) organizations. The school administration shall conduct periodic consultations affecting their students. matters Student representatives shall be elected by the student body to sit in Parent-Teacher Councils (PTC) and other recommendatory and decision-making bodies in school;

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Educational institutions shall adopt measures against discrimination and abuse of children.

### Section 13. RESPONSIBILITIES OF THE MASS MEDIA.

Mass Media is largely accessible to the child and has a major influence in their behavior and attitudes. In view hereof, all media operating in the province shall endeavor to:

- Show/Broadcast wholesome and educational materials on their primetime program. Said programs shall contain no elements that may result in physical, mental and emotional harm to child;
- b) Provide child friendly programs;
- Media shall refrain from showing/broadcasting any form of violent and c) pornographic material.

## Section 14. RESPONSIBILITIES OF THE BUSINESS SECTOR.

All persons and judicial entities engaged in any commercial activity in the Province shall establish Corporate Social Responsibility programs in support of the initiatives of the Province in promoting children's right:

- Business operators shall consider the best welfare and interest of the child;
- The business sector shall support programs, projects and services for children, especially those provided in this Code;
  - Bookstores, libraries, Internet cafes and other sources of information shall provide special section for children and restrict access to obscene, pornographic and violent materials;

Restaurants, KTV bars, nightclubs, hotels, motels and other business establishments in entertainment, tourism and travel industry, and gambling centers that provide access to adult entertainment shall ensure that the children are not allowed within their premises. It shall be the responsibility of owners of bars, karaoke joints to require authentic documents as proof of age prior to employment in night clubs, bars, karaoke, etc. Owners and managers of these establishment shall post a visible and legible notice prohibiting minors from entering their premises;

- Shopping malls and centers, boutiques, novelty stores, video arcades e) and other gaming centers shall monitor the presence of school-aged children during school hours in their premises. The presence of these children shall be reported to the schools to which these children are enrolled. In cases where these children are not enrolled in schools, the parent and/or guardians shall be informed;
- All establishments shall forbid the sale of cigar, cigarette, tobacco and f) tobacco products, liquor and other intoxicating beverages and volatile substances, and similar products to children.

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### Section 15. RESPONSIBILITIES OF THE EMPLOYER.

- a) It shall be the responsibility of the employer to verify the age of the person seeking employment;
- Employers shall not engage children in work that will endanger their health, safety and normal development;
- Employers shall ensure that children would have no access to prohibited and other products that may pose hazard to the health of the child.

# Section 16. RESPONSIBILITIES OF POLICE AND OTHER LAW ENFORCEMENT AGENCY.

Ensure the confidentiality of the records of the abused child unless otherwise required by competent authorities and the Court.

Enforce the necessary measures to protect the child from abuse and exploitation.

# Section 17. RESPONSIBILITIES OF THE CUSTODIAN/CENTER WHERE THE CHILD IS PLACED.

The custodian of the child shall conduct appropriate case disposition/psychosocial intervention for the best welfare & interest of the child in coordination with the local Social Welfare & Development Office.

## Section 18. RESPONSIBILITY OF THE RELIGIOUS SECTOR.

It shall be the responsibility of the religious sector to ensure the promotion and protection of children. The church shall design and adopt strategies to educate their members on child's rights and protection.

# Section 19. RESPONSIBILITY OF ALL CITIZENS TO REPORT.

t shall be the responsibility of any person who has personal knowledge that a child is suffering from any form of abuse to report the same, orally or in writing to the local Social Welfare & Development Office. Women and Children's Desk of the Philippine National Police or other law enforcement agency;

### Section 20. ACCOUNTABILITY.

Any person/organization who willfully ignore his responsibilities in ensuring the rights and protection of the child shall suffer the penalty of imprisonment of one (1) month to six (6) months or a fine of ₱5,000.00, or cancellation of license to operate/practice profession, or both at the discretion of the Court.

### CHAPTER IV PROHIBITED ACTS

### Section 21. FAILURE TO PROVIDE PROPER CHILD CARE.

It is the primary responsibility of parents and/or guardians to provide proper child care. The following acts shall be unlawful:

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- a) Refusal of parents to give financial support to their children;
- b) Refusal to provide adequate food, shelter or clothing to their child;
- c) Negligence to provide medical, dental and health services;
- d) Intentional abortion;
- Engaging in any activity that is hazardous to the safety and total wellbeing of the child;
- f) Depriving the child and the mother to avail of Maternal and Child Care services offered by the government;
- g) Neglect and abandonment of the child;
- Withhold, provide inadequate or incorrect information about the care and nutrition of a child;
- And other similar circumstances.

## Section 22. WITHHOLD THE CHILD'S PROPER IDENTITY.

Parents or any person taking custody of the child shall ensure that each born child has proper identity through registration of live birth. Assigning him the dignity and honor as member of the human family. The following acts shall be considered unlawful:

- a) Negligence to register the child's birth;
- Call a child any name or identity other than his or her own for the purpose of insulting, belittling or humiliating him;
- c) Facilitate, encouraging or coercing the child or parent/guardian of the child to falsify any entry in a child's records, including birth, baptismal or school records.

# Section 23. OBSTRUCT THE PROPER DEVELOPMENT OF THE CHILD.

Cognizant of the importance of providing adequate avenues and good environment/exposure in the mental and emotional progress of the child, the Province of the child, the Province shall consider the following acts unlawful:

- a) Refusal of parents and/or guardians to send their children to school;
- Refusal of public schools to accept children for enrollment in the primary and secondary level;
- Requiring students to buy special projects and other object and items outside of the approved school curriculum as a condition for passing or getting higher grades;
- Selling, showing, exposing and allowing children to access obscene, pornographic and violent material in television, radio, print and internet;

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e) Requiring the parents/guardians to waive school liability/responsibility during field trips, excursions and similar school activities.

### Section 24. DISCRIMINATE THE CHILD.

True to its commitment to provide equal opportunity to all children regardless of gender, race, religion, social status, culture, physical appearance and political affiliation, the following acts shall be considered unlawful:

- Refusing to enroll or accept a child merely by reason of a physical disability;
- Refusal to provide services to the child merely because of a physical or mental disability;
- Making fun or disrespecting a person by reason of a physical/mental disability & socio-economic condition;
- Refuse to listen to the views expressed by the child in matters affecting him/her;
- e) Inflict any form of punishment and or abuse on a child for expressing a contrary opinion;
- Branding or labeling CICL as young criminals, juvenile delinquents, prostitutes, snatchers, rugby boys or attaching to them in any manner any other derogatory names;
- Using discriminatory remarks and practices particularly with respect to the child's class or ethnic origins;

Threatening the child of whatever kind and nature and/or abusive, coercive and punitive measures such as, but not limited to cursing, beating and stripping;

Use of degrading, inhuman and cruel punishment such as, but not limited to, shaving the heads or minors, pouring in irritating corrosive or harmful substances over their bodies, or forcing minors to walk around the community wearing signs which embarrass, humiliate, and degrade their personality and dignity, which harm them psychologically, emotionally, spiritually, morally and physically;

Subjecting a CICL to involuntary servitude in any and all forms under any and all forms under any and all instances by their arresting officers and/or custodians by designating and/or compelling to act and serve as errand boys/girls, cleaners or helpers;

 Any other discriminatory acts directed to the child particularly the disabled.

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## Section 25. MANIPULATE THE CHILD.

Taking advantage of the child shall be considered unlawful and shall be prohibited in the province:

- Induce a minor to use prohibited drugs;
- Induce a minor to use cigar, cigarette, tobacco and other tobacco products, liquor and other intoxicating beverages, volatile substances and similar products;
- Use minors in the production and trafficking of prohibited drugs.

### DENY THE CHILD BASIC RIGHTS AND ACCESS TO PROVINCIAL GOVERNMENT SERVICES.

- Refuse to accept a child in public libraries, research centers and other a) government facilities;
- Force a child to change or join a certain religion or belief; b)
- Withhold services/privileges to children of minority culture and c) indigenous people;
- Cause undue publicity about cases of child abuse or other cases d) involving Children in Need of Special Protection (CNSP).

#### COMMERCIAL AND SEXUAL EXPLOITATION OF THE Section 27. CHILD.

It shall be unlawful to perform the following acts:

Sale of cigar, cigarette, tobacco and tobacco products, liquor and intoxicating beverages, volatile substances, pornographic and similar products/materials to children and use of children in the manufacture or distribution thereof;

Employment of children below 15 years old except those instances allowed by law;

- Employment of children 15 years old to below 18 above in hazardous c) work;
- Engaging of children in other illegal activities; d)
- To sell, force, coerce and deceive children and their parents/guardian e) for the purpose of engaging the children in prostitution or pornography;
- To recruit, transfer, transport, harbor, and hold a child in prostitution, f) pornography and other sexual activities;

To expose child to pornographic materials; g)

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- Falsification of birth records for employment in bars, karaoke and other h) similar establishment;
- Failure to report to the proper authorities any suspected incident of i) commercial sexual exploitation of a child;
- j) Failure to report to the proper authorities any suspected incident of child trafficking.

### Section 28. PHYSICAL ABUSE OF THE CHILD.

It shall be unlawful for parent or guardian to use physical and degrading forms of punishment such as but not limited to the following:

- Ordering or directing a child to kneel on salt;
- 2) Unreasonable shaving of the hair of a child;
- 3) Excessive whipping of a child;
- 4) Stripping the child's clothes;
- Tying up and detaining the child in a closed space that prevents 5) the child's mobility;
- Pulling the hair of the child; 6)
- 7) Making the child stand under the heat of the sun;
- Exposing the child to be bitten by ants.

### Section 29. PENALTIES.

Any violation of the prohibited acts as provided under Chapter 4 of this Code shall be punishable by a fine not exceeding ₱5,000.00 or imprisonment not exceeding one (1) year or both at the discretion of the Court. However, violation of these prohibited acts which constitute a violation of Revised Penal Code in relation to other children-related laws the penalty for which is higher shall be imposed.

### CHAPTER V MANAGEMENT OF MACHINERY AND SUPPORT SERVICES

### Section 30. PROGRAM AND SERVICES.

The Bataan Provincial Government shall utilize all resources to promote and ensure the child's rights, and therefore shall institute strategies to provide the following programs and services, provided however that constitutional rights of parents and religious freedom shall be respected:

Child Survival:

Infant birth rate and mortality rate monitoring analysis and data-1)

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- 2) Pre/Post natal care for mothers and child;
- 3) Immunizations of all children;
- 4) Proper child health and nutrition information campaign, which shall include the promotion of breast feeding;
- Temporary shelter/food assistance for abandoned and neglected child, and child-survivors of man-made and natural disasters and calamities;
- 6) Medical and financial assistance for medical needs of indigent children through an integrated Health Plan for Families;
- 7) Birth Registration Awareness Campaign;
- 8) Birth Registration Day (every 2<sup>nd</sup> Wednesday of January);
- 9) Monitoring of registration of live birth;
- 10) Late registration and waiver of fees for indigents.
- b) Child Development:
  - Education and training on the Convention on Rights of the Child (CRC) for teachers, health workers and other persons or institutions that have direct contact with children;
  - 2) Inclusion of the CRC in the school curriculum;
  - Study-now-pay-later Plan in private education institutions;
  - 4) Private-funded educational scholarship grants to indigent and deserving children.
  - 5) In-school feeding program for ECCD and primary school students;
  - 6) Participation of children in tri-media;
  - 7) Public library and resource center for children;
  - 8) Interactive Learning Center for children;
  - 9) Parks and playground;
  - 10) Annual Sports Fest.
- c) Child Protection:
- 1) Abuse

a) Center for Abused Children Reform;

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- Parent Education and Child Abuse Prevention Seminars; b)
- Child hotline for children in need of assistance; c)
- Monitoring of Commercial Sexual Exploitation of Children (CSEC) d) cases in the Province;
- e) Support services for the family of child survivors/victims.

#### Child Labor 2)

- Advocacy Program against child labor in the community;
- Alternative livelihood opportunities for parents and children above b) 15 years old;
- c) Health services for working children.

### Sexual Exploitation and Illegal Drugs

- Children's Crisis Center (same as Right to Periodic Review); a)
- Provincial Drug Rehabilitation Center; b)
- Province-wide campaign against pornography and use prohibited c) drugs for children;
- Free medical, psychological and psychosocial services for abused and exploited children.

### Children with Disabilities

- Providing assistance to parents of children with disabilities in order for the children to have access to special care, education and training;
- System of incentives to companies who hire children with disabilities in order for the children to have access to special care, education and training;
- c) health care services, rehabilitation services, preparation for employment and recreation opportunities to children with disabilities.

#### 5) Children in Conflict with the Law

- Comprehensive CICL Prevention Plans Instituted from the a) Community Barangay up to the provincial level. The prevention programs shall include:
  - Primary prevention, which include general measures to promote social justice and equal opportunity, which tackles perceived root, causes of offending such as poverty and other forms of marginalization;

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- Secondary prevention which include measures to assist children who are identified as being more particularly at risk such as those whose parents are themselves in special difficulty or are not caring appropriately for them;
- Tertiary prevention, which involves schemes to avoid unnecessary contact with the formal justice system and other measures to prevent re-offending;
- b) The Province, through the PCWC shall call on all sectors concerned particularly the child focused institutions, NGO's, PO's, Youth Organizations, Educational Institutions, and Government Agencies to participate in the formulation of measures to curb juvenile delinquency. The Province shall make sure that children and the youth actively participate in the planning, formulation, development and implementation of these programs;
- System of Diversion at the Barangay and police levels including Diversion Programs such as, but not limited to written or oral reprimand or citation, restitution of property, preparation of the damage caused, indemnification of consequential damages, confiscation and forfeiture of the proceeds or instruments of the crime, fine, payment of cost of the proceedings, written or oral apology, guidance and supervision orders, counseling for the child and the family, training, seminars and lectures on: (a) anger management skills; (b) problem solving and/or conflict resolution skills which will aid the child to deal with situations which can lead to re-offending, community and institutional care and custody;
- d) Institutionalize a system of diversion at the Katarungan Pambarangay Proceedings;
- e) Institutionalize a system of diversion at the Police Level;
- f) Establishment of CICL Custody Homes (Open Detention Facility) in the Province, at least one center Custody Home in each district, where CICL shall be provided extensive psychological and moral assistance, and necessary skills and academic indispensable to his transformation and development.

#### Section 31. **PROVINCIAL** COUNCIL FOR THE WELFARE OF CHILDREN.

Creation of the Provincial Council for the Welfare of Children a)

Hereby created is the Provincial Council for the Welfare of Children hereinafter referred to as the Council which shall be attached to the Office of the Provincial Governor for purposes of administrative supervision;

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The Council shall ensure the effective implementation of the Province's commitment to the Convention of the Rights of the Child, World Declaration on the Survival, Development and Protection of Children, and the Philippine Plan of Action for Children (PPCA) and the Philippine National Strategic Framework for Plan Development for Children (Child 21) and other International and National Instruments.

- Function of the Council. The Council shall perform the following functions:
  - 1. Formulate and oversee the implementation of national and provincial policies, programs and projects relative to the survival, development, participation and protection of children. The Council shall ensure that said programs and policies are gender fair and responsive to the needs of children;
  - 2. Coordinate with the national, provincial and local government line agencies, Non-Government Organizations on the implementation of programs concerning children;
  - 3. Craft a comprehensive and integrated Provincial Action and Financial Plan for Children each year and ensure implementation thereof;
  - Monitor and review the operation of public and private facilities located in the Province particularly those who have direct contact with the child;
  - 5. Review and integrate the city/municipal programs and projects needing assistance from the Province into the Provincial Action Plan for Children;
  - 6. Provide necessary technical assistance and monitor City/Municipal Councils for the Welfare of Children or any equivalent body at the municipal or component city level;
  - 7. Submit yearly report on all programs, projects/activities undertaken by the Council to the Governor and the Sangguniang Panlalawigan;
  - Mobilize resource assistance, specifically, to provide appropriate 8. support to child-related projects/activities as recommended by the local councils for the welfare of children;
  - 9. Endorse/Campaign or the passage of ordinances pertinent to the rights, protection and the general welfare of children, including legislation on the quality of television shows, and media points and coverage thereof;
  - 10. Coordinate with the municipalities and component cities on the adoption of programs and strategies that would address the needs and protect the interest of children;

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- 11. Identify and recommend programs and services to be contracted for implementation by NGO's and other entities in the implementation of this Code;
- Recommend the accreditation of Non-Government Organizations and People's Organizations that may have programs for children;
- Define additional functions of the Council and its Committees, and formulate other measures relative and incidental to implementation of this Code.
- **Composition.** The Council shall composed of the following personnel:

The Governor and the Provincial Social Welfare and Development Office as Chairman and Co-Chairman; the Chairman of the SP Committee on Women, Children and Family Affairs; the SK Provincial Federation President; the Provincial Social Welfare and Development Officer; the Provincial Legal Officer; the Provincial Health Officer; the Provincial Planning and Development Officer; the School Division Superintendent; the DILG Provincial Director; a representative from the Office of the Executive Judge Regional Trial Court; a representative from the Department of Labor and Employment; a representative from PNP Women and Children's Desk; a representative from the AFP Provincial Office; the President of the Mayor's League of the Province; Three (3) or more NGO representative that implement programs and projects for children in the Province and One (1) representative from the Trade/Labor Sector, as members.

Members of the Council shall elect among themselves a Vice Chairman, Secretary, Treasurer and Auditor.

Officers and members of the Council shall appoint a Permanent Representative to the Council in cases where he may not be available.

Committees. The Council shall be organized into Standing Committees namely Program, Early Child Care and Development, Health and Nutrition, Education, Labor and Commerce, Community and Family, and Monitoring. Each Committee shall be composed of at least three (3) members. Additional Committees may be created from time to time as may deem necessary;

Term of Office. Each Member of the Council shall serve for a period of e) three (3) years unless revoked for a cause or resigns from the Council. If a Member of the Council is unable to serve the full term of office, a new Member can be designated by the Governor upon the recommendation of the Council to serve the unexpired term of the original member;

Compensation and Remuneration. All Members of the Council shall perform their functions without additional compensation. Transportation and meal allowance may however be provided to augment their expenses incurred on the discharge of their official functions;

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- g) Accountability of Members and Officers. The Council shall be held accountable to the Province and any wrong doing committed by any member and officer of the Council in their official capacity shall be subject to disciplinary action as may be deemed proper. Any disciplinary action imposed will be without prejudice to the investigation and filing of civil and criminal charges thereof;
- h) Adoption of Rules of Procedure. The Council shall adopt a "Rules of Procedures" to define and govern its operation including matters concerning:
  - 1) Frequency and Rules of Procedure in Conducting Messages;
  - 2) Functions and Duties of Members and Officers of the Council:
  - Code of Ethics and Disciplinary Rules for Members and Officers of the Council.
- Secretariat and Staff Support. The Council shall organize a Secretariat, which shall serve as an administrative arm of the Council and shall be responsible for providing technical support, such as preparation, documentation, coordination/implementation of policies and programs adopted by the Council. The Secretariat shall be headed by a Program Director/Officer, who shall serve as the Administrative and Liaison Officer of the Council. The Secretariat shall serve for a term of three (3) years, and be eligible for reappointment;

There shall sufficient clerical staff and utility personnel to support the Secretariat and the Council.

j) **Budgetary Appropriations.** The Province shall include in its annual/supplement budget an appropriation of at least FIVE HUNDRED THOUSAND PESOS (₱500,000.00) for the administrative operations of the Secretariat and the Council;

The Province shall appropriate one percent (1%) of the annual Internal Revenue Allotment or at least FIVE MILLION PESOS (₱5,000,000.00) for the mplementation of projects, programs and services for children, especially those provided in this Code.

k) Fund-generating Activities for Children. The Council may hold activities to generate funds for the exclusive use of the Council. All money and donations, whether cash or in-kind, generated by the Council shall be placed in a Special Trust Fund of the Council to be held by the Provincial Treasurer.

# Section 32. CITY/MUNICIPAL/BARANGAY COUNCILS FOR THE PROTECTION OF CHILDREN.

City/Municipal and Barangay Council for the Protection of Children shall be organized in each local level and ensure that child interests are properly addressed in their respective areas. The Provincial Council for the Welfare of Children shall coordinate with the concerned city/municipality and provide technical assistance on the organization and functionality of the Local Council on the Protection of Children.

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### **CHAPTER VI** TRANSITORY AND FINAL PROVISIONS

#### IMPLEMENTING RULES AND REGULATIONS. Section 33.

The Council, in consultation with appropriate government agencies, People's Organizations and Non-Government Organizations, shall promulgate the necessary rules and regulations for the implementation of this Code within ninety (90) days after its effectivity.

## Section 34. REPEALING CLAUSE.

An ordinance, executive orders, circulars, memorandum orders and similar issuances inconsistent with this Code is hereby repealed.

### Section 35. SEPARABILITY CLAUSE.

If any part of provision of this Ordinance is held unconstitutional or invalid, other part or provisions thereof which are not affected shall remain valid and shall continue to remain in full force and effect.

### Section 36. EFFECTIVITY.

This Ordinance shall take effect immediately after fifteen (15) days following is complete publication in a newspaper of general circulation in the Province of Bataan.

### ANNEX A

Relevant provisions of R.A. 9344, as amended, regarding the apprehension and custody of CICLs:

#### SEC. 4. Definition of terms. -

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"Initial Contact With-the Child" refers to the apprehension or taking (k) into custody of a child in conflict with the law by law enforcement officers or private citizens. Ir includes the time when the child alleged to be in conflict with the law receives a subpoena under Section 3(b) of Rule 112 of the Revised Rules of Criminal Procedure or summons under Section 6(a) or Section 9(b) of the same Rule in cases that do not require preliminary investigation or where there is no necessity to place the child alleged to be in conflict with the law under immediate custody.

 SEC. 6. Minimum Age of Criminal Responsibility. - A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

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A child is deemed to be fifteen (15) years of age on the day of the fifteenth anniversary of his/her birthdate.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.

• SEC. 20. Children Below the Age of Criminal Responsibility. - If it has been determined that the child taken into custody is fifteen (15) years old or below, the authority which will have an initial contact with the child, in consultation with the local social welfare and development officer, has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative. The child shall be subjected to a community-based intervention program supervised by the local social welfare and development officer, unless the best interest of the child requires the referral of the child to a youth care facility or 'Bahay Pag-asa' managed by LGUs or licensed and/or accredited NGOs monitored by the DSWD.

The local social welfare and development officer shall determine the appropriate programs for the child who has been released, in consultation with the child and the person having custody over the child. If the parents, guardians or nearest relatives cannot be located, or if they refuse to take custody, the child may be released to any of the following:

(a) A duly registered non-government or religious organization;

 (b) A barangay official or a member of the Barangay Council for the Protection of Children (BCPC);

(c) A local social welfare and development officer, or, when and where appropriate, the DSWD.

If the child has been found by the local social welfare and development officer to be dependent, abandoned, neglected or abused by his/her parents and the best interest of the child requires that he/she be placed in a youth care facility or 'Bahay Pag-asa', the child's parents or guardians shall execute a written authorization for the voluntary commitment of the child: Provided, that if the child has no parents or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the DSWD or the Local Social Welfare and Development Office (LSWDO) pursuant to Presidential Decree No. 603, as amended, otherwise known as 'The Child and Youth Welfare Code' and the Supreme Court rule on commitment of children: Provided, further, That the minimum age for children committed to a youth care facility or 'Bahay Pag-asa' shall be twelve (12) years old.

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• SEC. 20-A. Serious Crime Committed by Children Who Are Exempt From Criminal Responsibility. - A child who is above twelve (12) years of age up to fifteen (15) years of age and who commits parricide, murder, infanticide, kidnapping and serious illegal detention where the victim is killed or raped, robbery, with homicide or rape, destructive arson, rape, or carnapping where the driver or occupant is killed or raped or offenses under Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002) punishable by more than twelve (12) years of imprisonment, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall be mandatorily placed in a special facility within the youth care faculty of 'Bahay Pag-asa' called the Intensive Juvenile Intervention and Support Center (IJISC).

In accordance with existing laws, rules, procedures and guidelines, the proper petition for involuntary commitment and placement under the IJISC shall be filed by the local social welfare and development officer of the LGU where the offense was committed, or by the DSWD social worker in the local social welfare and development officer's absence, within twenty-four (24) hours from the time of the receipt of a report on the alleged commission of The court, where the petition for involuntary commitment has been filed shall decide on the petition within seventy-two (72) hours from the time the said petition has been filed by the DSWD/LSWDO. The court will determine the initial period of placement of the child within the IJISC which shall not be less than one (1) year. The multi-disciplinary team of the IJISC will submit to the court a case study and progress report, to include a psychiatric evaluation report and recommend the reintegration of the child to his/her family or the extension of the placement under the IJISC. The multidisciplinary team will also submit a report to the court on the services extended to the parents and family of the child and the compliance of the parents in the intervention program. The court will decide whether the child has successfully completed the center-based intervention program and is already prepared to be reintegrated with his/her family or if there is a need for the continuation of the center-based rehabilitation of the child. The court will determine the next period of assessment or hearing on the commitment of the child.

• **SEC. 20-B. Repetition of Offenses**. - A child who is above twelve (12) years of age up to fifteen (15) years of age and who commits an offense for the second time or oftener: Provided, that the child was previously subjected to a community-based intervention program, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall undergo an intensive intervention program supervised by the local social welfare and development officer: Provided, further, That, if the best interest of the child requires that he/she be placed in a youth care facility or 'Bahay Pag-asa', the child's parents or guardians shall execute a written authorization for the voluntary commitment of the child: Provided, finally, That if the child has no parents or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the DSWD or the LSWDO pursuant to Presidential Decree No. 603, as amended.

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- SEC. 20-C. Exploitation of Children for Commission of Crimes. Any person who, in the commission of a crime, makes use, takes advantages of, or profits from the use of children, including any person who abuses his/her authority over the child or who, with abuse of confidence, takes advantages of the vulnerabilities of the child and shall induce, threaten or instigate the commission of the crime, shall be imposed the penalty prescribed by law for the crime committed in its maximum period.
- SEC. 20-D. Joint Parental Responsibility. -Based on the recommendation of the multi-disciplinary team of the IJISC, the LSWDO or the DSWD, the court may require the parents of a child in conflict with the law to undergo counseling or any other intervention that, in the opinion of the court, would advance the welfare and best interest of the child.

As used in this Act, 'parents' shall mean any of the following:

- (a) Biological parents of the child; or
- (b) Adoptive parents of the child; or
- (c) Individuals who have custody of the child.

A court exercising jurisdiction over a child in conflict with the law may require the attendance of one or both parents of the child at the place where the proceeding are to be conducted.

The parents shall be liable for damages unless they prove, to the satisfaction of the court, that they were exercising reasonable supervision over the child at the time the child committed the offense and exerted reasonable effort and utmost diligence to prevent or discourage the child from committing another offense.

Assistance to Victims of Offenses Committed by SEC. 20.E. Children. - The victim of the offense committed by a child and the victim's family shall be provided the appropriate assistance and psychological intervention by the LSWDO, the DSWD and other concerned agencies.

ENACTED BY THE SANGGUNIANG PANLALAWIGAN OF BATAAN, in its Special Session held on April 10, 2018, Bataan Library and Museum, Capitol Compound, City of Balanga, Bataan.

APPROVED UNANIMOUSLY.

SEVERINO P. SALAZAR Secretary to the SP

BENJAMIN C. SERRANO, JR. Board Member

ROLANDO Z. TIGAS **Board Member** 

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REYNALDO T. IBE, JR. Board Member

MANUEL N. BELTRAN Board Member

DANTE R MANALAYSAY Board Member

DOROTEO M. AUSTRIA Board Member (FABC President) JOVY Z. BANZON Board Member

EDGARDO P. CALIMBAS Board Member

JOSE C. VILLAPANDO, SR. Board Member

NOEL JOSEPH L. VALDECAÑAS Board Member (PCL President)

ATTESTED:

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

APPROVED:

Date: 4-17-18

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