

REPUBLIKA NG PILIPINAS
TANGGAPAN NG SANGGUNIANG PANLUNGSOD
LUNGSOD NG BACOLOD
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CITY ORDINANCE NO. 367
April 1, 2004

AN ORDINANCE DEFINING VIOLENCE AGAINST WOMEN AND CHILDREN, DESCRIBING PENALTIES THEREFOR, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, AND FOR OTHER PURPOSES.

WHEREAS, violence against women and children is a problem long recognized to have wreaked havoc on families, thereby destroying lives of family members in the process, and likewise threatening the very foundation of society;

WHEREAS, while there are already laws which address some forms of violence between spouses, including live-in partners and between other family members, however studies show that there is no specific legislation which properly addresses violence between partners in intimate relationships;

WHEREAS, the Sangguniang Panlungsod of Bacolod City recognizes the necessity to address this worsening social problem, and found that it is imperative to promptly uplift the plight not only of women and family but also of men.

NOW THEREFORE, be it ordained by the Sangguniang Panlungsod of Bacolod City in session assembled, that:

Section 1. Title. This Ordinance shall be known as the **"VIOLENCE AGAINST WOMEN AND CHILDREN ORDINANCE"**.

Section 2. Definition of Terms. For purposes of this Ordinance, the following shall be meant:

(A) **Violence Against Women and Children** - refers to any act or a series of acts committed by any person against a woman who is his wife, former wife or against a woman with whom the person has or had a dating relationship or against a child, whether legitimate or illegitimate, within or without the family abode, that result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assaults, coercion, harassment or arbitrary deprivation of liberty. It includes, but not limited to the following acts:

A.1 **Physical Violence** refers to acts that includes bodily or physical harm.

A.2 **Sexual Violence** refers to acts constituting rape, whether in attempted, frustrated or consummated stage, sexual assault, acts of lasciviousness and trafficking

A.3 **Psychological Violence** refers to acts of omissions causing or likely to cause mental or emotional suffering of the victim such as intimidation, harassment, stalking, damage to property, repeated verbal abuse, marital infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of the member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwarranted deprivation of the right to custody and/or visitation or common children.

A.4 Economic Abuse refers to acts that make or attempt to make a person financially dependent in any undue manner which includes, but is not limited to the following:

1. Withdrawal of financial support or preventing the victims from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
2. Deprivation of financial resources and the right to support, conjugal, community or property owned in common.

(B) Battering refers to any beating or other physical abuse or constraint inflicted on any person.

(C) Battered Woman Syndrome refers to a pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse. The four general characteristics of this syndrome are: the woman believes that the violence was her fault; the woman has an inability to place the responsibility for violence elsewhere; the woman fears for her life and/or her children, and the battered woman as irrational belief that the abuser is omnipresent and omniscient.

(D) Stalking refers to an intentional act committed by a person who, knowingly and without lawful jurisdiction, on at least two separate occasions follows another woman or child or places the woman or child under surveillance directly or indirectly or a combination thereof.

(E) Dating Relationship refers to a situation wherein the parties live as husband and wife without the benefit of marriage or are romantically involved over time and on a continuing basis during the course of the relationship. A casual acquaintance or ordinary socialization between two individuals in a business or social context is not a dating relationship.

(F) Safe Place or Shelter refers to any home or institution maintained or managed by the Department of Social Welfare and Development or by any other agency or voluntary organization approved by the Secretary for the purposes of this Act or any other suitable place the resident of which is willing temporarily to receive the victim.

(G) Quick Response Team or QRT - is a group of individuals, trained designated and committed to undertake one or two or all of the following:

g.1 Facilitate the provision of immediate, short and medium term assistance and services of survivors of VAW and family violence, particularly to women and children

g.2 Kinds of QRT Intervention Assistance

- a. Crisis intervention: Immediate services/assistance provided after the occurrence of the abused incident, including providing medical examination and treatment to injuries suffered by the victim, temporary shelter if the victim has left the home, crisis counseling to help the victim deal with the aftershock or emotional trauma.

- b. Short Term Intervention: May include referrals, referring victims to different agencies for assistance in pursuing the case, extending stay in the shelter, assisting the victim file a complaint with the police and prosecutor's office, providing basic necessities such as food, clothing, medicine, transportation and other expenses.
- b. Medium Term to Long Term Intervention: Consists of more strategic intervention, including comprehensive therapy and long term counseling program, livelihood assistance, assistance in finding alternative shelter, skills training for employment and livelihood provision, educational support for children or the mother.

Section 2. Acts of Violence Against Women and Children – the crime of violence against women and children is committed through any of the following acts:

- a. Causing physical harm to the woman or child;
- b. Threatening or attempting to cause the woman or child physical harm;
- c. Placing the woman or child in fear of imminent physical harm;
- d. Attempting to compel or compelling the woman or child to engage in conduct which the woman or child has the right to desist from or to desist from conduct which the woman or child has the right to engage in, or attempting to restrict or restricting the woman's or child's movement or conduct.
 - 1. Threatening to deprive or actually depriving the woman or child of custody or access to her/his family;
 - 2. Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;
 - 3. Depriving or threatening to deprive the woman or child of a legal right;
 - 4. Preventing the woman or child in engaging in any legitimate profession, occupation, business or activity, or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties.
- e. Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;
- f. Forcibly causing or attempting to cause the woman or child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or child or her/his immediate family;
- g. Engaging in purposeful, knowing, or reckless conduct, personally or through another that alarms or causes substantial emotional or psychological distress to the woman or child and serves no legitimate purpose: *Provided*, that if such conduct involves only one incident, the conduct must be such as to result in substantial emotional distress to the woman or child. This shall include, but not limited to, the following acts:
 - 1. Stalking or following the woman or child about in public or private places;
 - 2. Peering in the window or lingering outside the residence of the woman or child;
 - 3. Entering or remaining in the dwelling or on the property of the woman or child against her/his will;
 - 4. Destroying the property, personal belongings, animals or pets of the woman or child;
 - 5. Engaging in any form of psychological harassment or violence, or

- h. Causing mental or emotional anguish, public ridicule or humiliation to the woman or child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support to custody of minor children or denial of access to the woman's child/children.

Section 4. Who may be Liable. Any person who shall commit any act of domestic violence as herein defined in this Ordinance shall be liable for the same.

Section 5. Who may File. Any person with personal knowledge of any act comprising domestic violence may file a complaint of domestic violence with or without the consent of the victim.

Section 6. Where to File. Violence against Women and Children cases shall be filed in Courts of appropriate jurisdiction.

Section 7. How to File. The filing of violence against women and children complaint shall be in accordance with the procedures provided in the Rules of Court. It shall state the application for the issuance of a protection order and claim for damages, unless separate application for protection order and claim for damages is filed.

The filing of a complaint for violence against women and children under this Ordinance shall be prejudice to the filing of another criminal or civil actions whenever applicable.

Section 8. Penalties. Any person who shall commit any act in violation of this Ordinance, constituting domestic violence in any form shall, upon conviction, be punished by a penalty of *imprisonment not exceeding One (1) Year or a fine not exceeding Five Thousand Pesos (P5,000.00), or both, at the discretion of the court.*

Section 9. Prescription. The provision of the Revised Penal Code on prescription of Offenses shall apply to the acts defined in Section 2 hereof.

Section 10. Interventions upon Commission of Violence Against Women and Children. In every case of domestic violence as herein defined, any person who in good faith intervenes without using violence or restraint necessary to ensure the safety of the victim shall not be liable for any criminal or civil liability resulting therefrom.

Section 11. Mandatory Acts. Any person who commits any act of violence against women and children shall be arrested immediately pursuant to the provisions on arrest in the Rules of Court. However, if the arrest is made by a person not a Peace Officer, the offender shall be turned over immediately to the authorities for investigation and detention. When the police detention center is not easily accessible, the offender may be temporarily taken in custody by the barangay officials.

If the offender is granted bail, the prohibition to contact the victim shall remain in force until the victim expressly waives the protection before the person who has in custody with him or her.

Section 12. Protection Orders. Protection Orders shall include any order issued for the purpose of preventing acts of abuse as defined in Section 2 of this Ordinance. The protection orders that may be issued under this Ordinance are the Barangay Protection Order (BPO), the Temporary Protection Order (TPO), and the Permanent Protection Order (PPO). These protection orders shall include some or any of the following reliefs:

- a. Prohibit the respondent, personally or thru another, from committing any act of violence against women and children, as defined herein;
- b. Whenever applicable, order the respondent to immediately leave the domicile/residence of the petitioner;
- c. Prohibit the respondent from directly or indirectly communicating or contacting with the petitioner;
- d. Wherever applicable, grant custody of the minor children to the petitioner's parent, or such person or government agency to the best interest of such minor/s, and
- e. Grant other reliefs by the Court as it is deemed necessary for the petitioner's protection and for other concerned persons who may be in need of the protection.

Section 13. The following may file the petition orders:

- a. The offended Party;
- b. Any member of the family or household of the offended Party as defined in this Ordinance;
- c. Social worker;
- d. A law enforcement officer who has personal knowledge of the abuse, and
- e. The Department of Social Services and Development (DSSD) and other accredited non-government organizations (NGOs).

Section 14. Where to Apply for the Protection Order. Application for Barangay Protection Orders shall follow the Rules of the Venue under Section 409 of the Local Government Code of 1991, and its implementing Rules and Regulations (IRR). Application for Temporary Protection Order and Permanent Protection Order must be made with the Court of appropriate jurisdiction.

Section 15. Application of a Protection Order. The application for a Protection Order shall be in writing, stating therein the circumstances of the case. The application shall be signed and under oath by the applicant.

Section 16. The Barangay Protection Order (BPO). BPO may be issued by the Punong Barangay concerned.

A Punong Barangay who receives applications for a BPO shall issue the protection order to the applicant on the date of filing after *ex parte* determination on the basis of the application.

The BPO shall cover only the relief mentioned in Section 11 (a), (b) and (c), and shall be effective only within fifteen (15) days. And, immediately after the issuance of an *ex parte* BPO, the Punong Barangay or his representative shall personally serve a copy of the same to the respondent.

Section 17. The Quick Response Team (QRT). To appropriately and effectively respond to cases of VAW-C, as defined herein in this Ordinance, a Quick Response Team must and shall be organized/created in every Barangay of Bacolod City.

Section 18. Separability Clause. If any provision or provisions of this Ordinance shall be declared invalid or unconstitutional by appropriate Court or by competent authorities, other provision or provisions hereof which are not affected hereby shall continue to be in full force and effect.

Section 19. Effectivity. This Ordinance shall take effect immediately upon approval in accordance with the law.

CARRIED BY THE VOTE OF:

Affirmative:

Councilors: Archie S. Baribar, Roberto M. Rojas, Jude Thaddeus A. Sayson, Ana Marie V. Palermo, Celia Matea R. Flor, Jose H. Gabuat, Lyndon P. Caña, Elmer T. Sy, Bobbie S. Lucasan, Greg G. Gasataya, Reynold I. Iledan, Sonya M. Verdeflor, Marx Louie S. de la Rosa.

Negative : None

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Councilor Sonya M. Verdeflor
Councilor Lyndon P. Caña
Councilor Greg G. Gasataya

Absent : None

Passed April 1, 2004 (141st Regular Session)

Comments: Passed.
Councilor Arturo V. Parreño was out of the Session Hall when this Ordinance was passed

RAMIRO L. GARCIA, JR.
Vice Mayor
Presiding Officer

4/28/04

TESTED:

ATTY. NILO T. ALEJANDRINO
Secretary to the Sanggunian

APPROVED: *May 24, 2004*

LUZVIMINDA S. VALDEZ
City Mayor

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