

Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO TRANSITION AUTHORITY
Cotabato City

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Bangsamoro Autonomous Region in Muslim Mindanao
Parliament
BILLS AND INDEX DIVISION

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Name: AMIR S. MAWALLIL Signature: [Signature]
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SECOND PARLIAMENT
First Regular Session

Parliament Bill No. 75

Introduced by
MP AMILBAHAR S. MAWALLIL
Co-authored by
**ATTY. LAISA MASUHUD ALAMIA, ENGR. BAIN TAN A. AMPATUAN, ATTY.
RASOL Y. MITMUG, JR., ATTY. SUHARTO M. AMBOLOD TO, RASUL E.
ISMAEL, ENGR. DON MUSTAPHA A. LOONG**

AN ACT
IMPLEMENTING THE PEOPLE'S RIGHT TO INFORMATION IN THE
BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO, PROVIDING
GUIDELINES THEREFOR, AND PROVIDING PENALTIES FOR THE VIOLATION
THEREOF

EXPLANATORY NOTE

The constitutional guarantee of the right to information on matters of public concern enunciated in Section 7 of Article III of the 1987 Constitution complements the State's policy of full public disclosure in all transactions involving public interest expressed in Section 28 of Article II of the 1987 Constitution. These provisions are aimed at ensuring transparency in policy-making as well as in the operations of the Government, and at safeguarding the exercise by the people of the freedom of expression.¹

An essential element of this freedom is to keep open a continuing dialogue or process of communication between the government and the people. It is in the interest of the State that the channels for free political discussion be maintained to the end that the government may perceive and be responsive to the people's will.² Thus, this open dialogue can be effective only to the extent that the citizenry is informed and thus able to formulate its will intelligently. Only when the participants in the discussion are aware of the issues and have access to information relating thereto can such bear fruit.³

While the Supreme Court has consistently held that the right to information under Constitution is self-executory, there is a need to pass legislation that will provide the substantive and

¹ Sereno v. CTRM, G.R. No. 175210, February 1, 2016.

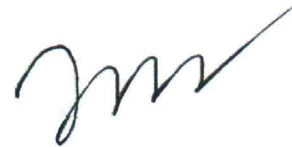
² Valmonte v. Belmonte, Jr., G.R. No. 74930, February 13, 1989

³ Chavez v. PEA, G.R. 133250, July 9, 2002

procedural details for its implementation which include reasonable conditions and limitations on the access granted consistent with the declared State policy of full public disclosure of all transactions involving public interest.

Recognizing the importance of the people's right to information, and guided by the President's Executive Order on FOI and the Chief Minister's call for moral governance, this representation deems it necessary to provide a local mechanism for the offices in the Bangsamoro government where the people's right to information is respected and upheld and will help restore trust and confidence in government, subject to exceptions provided by law and jurisprudence.

In view of the foregoing, approval of this bill is earnestly sought.



AMILBAHAR S. MAWALLIL
Member of the Parliament

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Section 1. Title. This Act shall be known as the "Bangsamoro Freedom of Information Act of 2022."

Section 2. Declaration of Policy. The Bangsamoro Government recognizes that a public office is a public trust. As such, public officers and employees shall at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives. Through this Act, the Bangsamoro Government adopts a policy of transparency, public disclosure, and open records as part of the continuing effort to take effective measures toward moral governance, a higher level of public accountability, and the empowerment of the Bangsamoro.

Section 3. Definition of Terms. For the purpose of this Act, the following terms shall mean:

- (a) "**Information**" shall include all records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer-stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received or kept in or under the control and custody of any government office under the Bangsamoro Government pursuant to law, ordinance, executive order, and rules and

regulations or in connection with the performance or transaction of official business by any government office under the Bangsamoro Government.

- (b) **“Official record”** shall refer to information produced or received by a public officer or employee, or by the Bangsamoro Government or any government office in an official capacity or pursuant to a public function or duty.
- (c) **“Public record”** shall include information required by laws, executive orders, rules, or regulations to be entered, stored or preserved in any medium and made publicly available by a government office. This shall include incomplete or partial records, or any piece of information found therein.
- (d) **“Privileged information”** shall refer to any and all forms of data, which, under the Rules of Court and other pertinent laws, constitute privileged communication.

Section 4. Coverage. This Act shall cover all offices in the Bangsamoro Government including, but not limited to, the Bangsamoro parliament; the ministries, agencies, bureaus, commissions, boards and instrumentalities of the Bangsamoro Government; and Bangsamoro government-owned or controlled corporations.

Section 5. Access to Information. Every person shall have the right to access, examine, and copy information, official records, public records under the custody or control of the Bangsamoro Government and to documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as a basis for policy development, in the custody of the Bangsamoro Government or any of its offices, regardless of the physical form or format in which they are contained, subject only to the exceptions enumerated in Section 7 of this Act.

Section 6. Presumption of Freedom of Information. All official records, public records and information shall be presumed open and accessible to the public, unless they are deemed confidential pursuant to the immediately succeeding section. Any ambiguity in this Act shall be resolved in favor of freedom of information and transparency in governance.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of Office, which is in custody or control of the information, public record or official record, or the responsible officer designated by him/her in writing.

Section 7. Exceptions. Access to information shall be granted unless:

- (1) The information requested pertains to law enforcement and protection of public and personal safety, when the disclosure thereof may:
 - a. Compromise or interfere with any legitimate law enforcement operation, or
 - b. Compromise or interfere with the legitimate prevention, detection or suppression of criminal activity, or

- c. Lead to the disclosure of the identity of a confidential source, including a government authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a law enforcement authority in the course of an investigation or by an agency conducting a lawful security intelligence investigation, information furnished by a confidential source, or
 - d. Disclose legitimate techniques and procedures for law enforcement investigations or prosecutions, or would disclose legitimate guidelines for law enforcement investigations or prosecutions, if such disclosure could reasonably be expected to risk circumvention of the law, or
 - e. Endanger the life or physical safety of any individual, or
 - f. Deprive a person of a right to a fair trial and impartial adjudication.
- (2) The information requested pertains to matters of human security, such as, but not limited to, food, health, finance and trade: Provided, That such disclosure or premature disclosure will imperil the well-being or degrade the quality of life of the people by causing unnecessary panic and conflict and threatening to limit the range of policy choices available to the concerned implementing and regulating agencies: Provided further, That this exception shall apply only until such time that the confidentiality requirement of the action plan of said agency is no longer necessary in addressing the said security issue.
- (3) The information requested consists of drafts of orders, resolutions, decisions, memoranda or audit reports by offices in the Bangsamoro government in the exercise of their regulatory, audit and adjudicatory function, the revelation of which would impair the impartiality of verdicts or otherwise obstruct the administration of justice;
- (4) The information requested is obtained by the Bangsamoro Parliament, or any committee thereof, in executive session, unless, with a majority vote of the body in accordance with their own rules of procedure, when applicable, may waive the exception when they deem that there is an overriding public interest in disclosure;
- (5) The information is required to be kept confidential by law or consists of privileged information unless the person entitled to the privilege has waived it;
- (6) The information requested pertains to the personal and sensitive information of a natural person other than the requesting party, and its disclosure would constitute an unwarranted invasion of his or her personal privacy.

When only a part or several parts of the requested public record falls under the confidentiality exceptions, only those parts shall be withheld and the rest of the public record shall be released.

Section 8. Automatic Disclosure of Public Records. All offices in the Bangsamoro Government shall continue to disclose to the public all documents relating to public transactions, documents or records, to wit:

- (1) Audited financial statements;
- (2) Annual budget report;
- (3) Itemized monthly collections and disbursements;
- (4) Summary of income and expenditures;
- (5) Revenue targets and actual collections
- (6) Statement of debt services;
- (7) Annual procurement plan and procurement list;
- (8) Bidding processes, deadlines and requirements;
- (9) Items to bid;
- (10) Bid results on civil works, goods and services, and consulting services;
- (11) Supplemental procurement plan, if any;
- (12) Loans, grants, development assistance, technical assistance and programs from domestic and foreign financial institutions;
- (13) Development plans, investment programs, detailed engineering design, standard specifications, performance targets and accomplishments, manual of operations, programs and projects, and the implementation guidelines; and
- (14) Executive issuances (executive orders, memorandum, administrative orders, proclamations)

In addition to the posting requirements as mandated under applicable laws, memorandums, circulars and other regulations, the documents listed in the immediately preceding paragraph shall be posted on the official website of the office concerned. There shall be a clearly discernible hyperlink on the home page and the main menu leading to the said section.

Provided, that all offices of the Bangsamoro government shall post the said documents in other conspicuous places, both physically and through the internet, including social media, as it has the capacity to do so. The document/s shall be posted not later than thirty (30) working days from its perfection or issuance.

Section 9. Capacity-Building, Promotion of Best Practices and Continuous Updating of Appropriate Information Technology and FOI. All offices in the Bangsamoro government must ensure that they have a compliant website within two (2) years from the date of effectivity of this Act.

The Bangsamoro Information and Communications Technology Office (BICTO) shall monitor all websites of the offices in the Bangsamoro government and render the appropriate support, including capacity-building programs to ensure full compliance with the requirements of this Act.

An online FOI portal shall also be established for the purpose of convenience and efficient access to government information by the BICTO.

All offices in the Bangsamoro government shall ensure the provision of adequate training for its officials to improve awareness of the people's right to information and the provisions of this Act, and to keep updated as to best practices in relation to information disclosure, records maintenance and archiving.

Section 10. FOI Focal Office and FOI Receiving Officers. The Bangsamoro Information Office (BIO) shall be designated to be the FOI Focal Office. It shall be tasked to oversee the implementation of the provisions of this Act. The BIO shall also develop standard forms for the submission of requests and for the proper acknowledgement of such requests.

The BIO shall monitor the status of all requests for access to information filed in the Bangsamoro government and its offices. Thus, it shall establish a system to trace the status of all requests for information in the Bangsamoro government.

Each of the offices in the Bangsamoro government shall also designate an FOI Receiving Officer who will accommodate requests for access to information filed through their office.

Section 11. Right to Information Manual. The BIO shall prepare a Right to Information Manual for the region within ninety (90) calendar days from the date of the effectivity of this Act. The manual shall be readily available to the public at no charge and shall be published on the official website of the Bangsamoro government. The said manual must contain the following:

- (1) Name, location, official contact information, and email address of the Bangsamoro Information Office FOI focal officer and all FOI Receiving Officers, as well as the complete URL of the official website of all offices in the Bangsamoro government;
- (2) Procedure for filing and processing of the request for information;
- (3) Remedies available and procedure for the same, in case of denial;
- (4) Standard forms for the submission of requests, if any;
- (5) Applicable fees;
- (6) Inventory of exceptions, as provided for in Section 6; and
- (7) A complete copy of the text of this Act.

Section 12. Procedure for Requests for Information. The following procedure shall govern the filing and processing of request for access to information:

- (a) Any person who requests access to information may consult the BIO to identify the concerned office which keeps the information being requested. The requestor may also go directly to the concerned office which he or she thinks has the information being requested. A request may be submitted through a written letter, including through personal delivery, postal mail, or electronically.

- (b) Upon request for information, the concerned office shall respond to a request as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof.
- (c) If the office concerned decides to deny the request, it shall notify the person making the request of such denial in writing or through electronic means, clearly stating the ground/s for denial and the circumstances on which the denial is based, and indicate available rights of appeal pursuant to Section 14 of this Act.

Section 13. Fees. The acceptance and processing of requests for information shall be free of cost to the public. Likewise, there shall be no charge for obtaining information in digital format (i.e. PDF, JPEG, etc.). However, the following schedule of fees is imposed for printing, photocopying and mailing rendered by it:

Printing (colored ink)	-	P5.00/page
Printing (black ink)	-	P2.00/page
Photocopying	-	P1.00/page
Mail	-	Actual postage rates

The FOI receiving officer concerned may require that the assessed fee be paid first before copies are released.

Provided, that the office concerned may exempt a person from payment of fees upon stating a valid reason why such party should not pay the fee.

Section 14. Remedies in Cases of Denial of Request for Access to Information. Denial of any request for access to information may be appealed to the Office of the Chief Minister (OCM). The appeal must be made in writing within thirty (30) calendar days from the receipt of the notice of denial or from the lapse of the relevant period to respond to the request.

The appeal shall be decided by the OCM within ten (10) working days from the filing of said written appeal. Failure of the OCM to decide within the said period shall be deemed a denial of the request.

Upon exhaustion of the administrative remedies provided for in this Act, the appropriate case may be filed in the proper court in accordance with the Rules of Court.

Section 15. Penalties. Failure of any government official or employee to comply with the provisions of this Act shall be a ground for the following penalties:

- 1st Offense - Reprimand;
- 2nd Offense - Suspension of one (1) to thirty (30) days; and
- 3rd Offense - Dismissal from the service.

The BIO shall submit the list of government officers who fail to comply with the provisions of this Act to the OCM who shall decide on the appropriate administrative and disciplinary sanctions.

Section 16. System of Incentives and Rewards. A system of special incentives and rewards is hereby established to be given to the appropriate office in the Bangsamoro government that initiated and displayed full compliance and full participation in the meaningful implementation of this Act. The incentives and rewards may include, but not limited to, social projects, grants-in-aid, recognition, and similar entitlements.

Section 17. Appropriations. The amount necessary to carry out the provisions of this Act shall be charged against the office's current budget and shall thereafter be included in the annual Appropriations Act.

Section 18. Separability Clause. If any section or part of this Act is held unconstitutional or invalid, all other sections or provisions not otherwise affected shall remain in full force and effect.

Section 19. Repealing Clause. All ordinances, executive orders, administrative orders, or other rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

Section 20. Effectivity. This Act shall take effect fifteen (15) days after publication in a newspaper of regional circulation.

Adopted,

AUTHOR:



AMILBAHAR S. MAWALLIL
Member of the Parliament

Certified correct:

PROF. RABY B. ANGKAL
Secretary General

Attested by:

HON. PANGALIAN M. BALINDONG
Speaker