



OFFICE OF THE SANGGUNIANG PANLUNGSOD

EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION OF THE SANGGUNIANG PANLUNGSOD HELD ON THE 9TH DAY OF AUGUST, 2018 AT 4:00 P.M. AT THE SP SESSION HALL, THIS CITY

PRESENT:

Hon. CHRISTOPHER PAUL S. CARMONA,	SP Member/Presiding Officer Pro Tempore'
“ BENITO Y. GUSTILO, JR.,	SP Member
“ MARI-CAR O. QUISUMBING,	SP Member
“ JOSE CARLOS L. VILLARANTE,	SP Member
“ VICTORIANA C. CABILI,	SP Member
“ MARK E. CUI,	SP Member
“ CLINT S. MANSUETO,	SP Member
“ JONIE S. UY,	SP Member
“ ANTHONY S. WEE,	SP Member (LnB President)
“ JB SPRING C. BACURNAY	SP Member (SK Representative)

ON OFFICIAL BUSINESS:

Hon. RENATO Y. GUSTILO,	Vice Mayor
“ WILMER L. YAP,	SP Member
“ ALEXANDER Y. ONGTIAOBOK,	SP Member

ORDINANCE NO. 18-33
SERIES OF 2018

AN ORDINANCE AMENDING THE SAN CARLOS CITY CHILDREN’S CODE

Introduced by: Hons. QUISUMBING, CABILI, VILLARANTE, CUI and UY

Be it ordained by the Sangguniang Panlungsod of San Carlos City, Province of Negros Occidental in its regular session assembled, that:

ARTICLE I
GENERAL PROVISIONS

Section 1. Title. The ordinance shall be known and cited as the “San Carlos City Children’s Code”.

Section 2. Declaration of Policy and Principles. The city recognizes the welfare of children as part of nation building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being which shall encourage their involvement in public and civic affairs.

It also recognizes that children have rights as provided in the United Nations Convention on the Rights of the Child and other laws.

The city government of San Carlos recognizes the importance of effectively promoting, fully enhancing, and institutionalizing the survival, development, participation and protective rights of children within the framework of advancing their general welfare in furtherance of an integrated, sustainable and equitable development.

It believes in the holistic protection and development of all children through a strong partnership between and among government agencies, Civil Society Organizations (CSOs) and the private sector, serving with the highest degree of professionalism and competence in an atmosphere of unity, solidarity and teamwork.

Section 3. *Purposes.* This code is enacted with the following purpose:

- a.) To ensure the protection of children against all forms of abuse and exploitation;
- b.) To advocate for children's rights and promote their welfare and development;
- c.) To ensure that children's rights are given priority attention by government, business, and civil society;
- d.) To improve the quality of life of San Carlos City children enabling them to fully develop their potentials and participants in community life and nation-building.

Section 4. *All proceeding to be conducted in the Best Interest of the Child.* Proceedings before any authority should be conducted in the best interest of the child. All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved taking into consideration the best interest of the child.

Section 5. *Participation of the Child.* All proceedings before any authority shall be conducted in a manner, which allows children to participate and to express themselves freely. Participation of children in program and policy formulation and implementation related with the children's concern shall be ensured by the government agency or local government unit (LGU).

Section 6. *Duties and Responsibilities of the City.* In accordance with Section 3, paragraph 2, Article XV of the Philippines Constitution, it is the duty of the City to 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 acts prejudicial to their development.

In accordance with the United Nations Convention on the Rights of the Child (UNCRC) to which the Philippines is a State Party, the City shall:

1. Undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the UNCRC. With regard to economic, social and cultural rights, the City shall undertake such measures and, where needed, within the framework of international cooperation;
2. Ensure to the maximum extent the survival, development, protection and participation of the child;
3. Take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence, injury or abuse, while in the care of parent/s, legal guardian/s or any other person/s who has the care of the child.
4. Assure the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with his or her age and maturity;
5. Provide appropriate assistance to parent and legal guardians in the performance of their child-rearing responsibilities and shall ensure the availability of institutions, adequate facilities and quality services for the care of children.

Section 7. *Definition of Terms.* The following terms used in this Ordinance shall be defined as follows:

- a.) Child-refers to a person below 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 physical or mental disability or condition.
- b.) Child abuse- refers to the maltreatment, whether habitual or not which includes any of the following:
 1. Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
 2. Any act by deeds or words, which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

3. Unreasonable deprivation of his or her needs for survival, such as food, clothing, shelter and psychosocial ;
 4. Failure to immediately provide medical treatment to an injured child resulting in serious impairment of his or her growth and development or is or her permanent incapacity or death.
 5. Abandoned child
- c.) Special concerns are circumstances which gravely threaten or endanger the survival and normal development of children including but on limited to the following:
1. Being in a community where there is armed conflict or being affected by armed conflict-related activities;
 2. Working under conditions hazardous to life safety and morals which unduly interfere with their normal development;
 3. Living in our fending for themselves in the streets of urban or rural areas without the care of parents or a guardian or any adult supervision needed for their welfare;
 4. Being children of indigenous and / or living under conditions of extremes poverty or in an area which is underdeveloped and / or has inadequate access to basic services needed for a good quality of life;
 5. Being a victim of a man-made or natural disaster or calamity; or
 6. Similar circumstances which endanger the life, safety or normal development of children.
- d.) Day care is the provision of substitute parental care and stimulating activities for the total development of children zero to five (0-5) years old when their parents are unable to take care of them during part of the day because of work and some other situation.
- e.) Day care center is a facility where day care services are provided by an accredited day care worker, particularly for children, for the three-to-five (3-5) year age bracket.
- f.) Diversion shall refer to an alternative child-appropriate process of determining a juvenile's responsibility for an alleged offense as well as in determining the measures, if any, to be undertaken by the juvenile and other persons without resorting to formal court adjudication.
- g.) Diversion programs shall refer to programs that juvenile are required to undergo after they are found responsible for an offense, without the child being made to undergo formal court litigation.
- h.) Community reintegration program shall refer to the programs established for the purpose of rehabilitating and preparing the child for reintegration into the community.
- i.) Katarungang Pambarangay shall refer to Sec. 408-422 of the Local Government Code of 1991, which is commonly known as the Katarungang Pambarangay Law.
- j.) Specially- abled children, children with disabilities or children with special needs are children with either physical or mental infirmities whether congenital or acquired after birth.

ARTICLE II RIGHTS AND OBLIGATION OF THE CHILD

Section 1. *Rights of the Child.*

1. Survival Rights: Covers the inherent right of every child to be born and to enjoy life under the care and support of parents and avail of government programs on basic needs such as

but not limited to education, health and other social programs. The following are the survival rights:

- a.) Every child has the right to be born well, endowed with the dignity and worth of a human being from the moment of his or her conception;
 - b.) Every child has the right to a wholesome family life that will provide him or her with love, care and understanding, guidance and counseling and moral maternal security. The dependent or abandoned child shall be provided with the nearest substitute of a home;
 - c.) Every child has the right to a balanced well-nourished diet, adequate clothing, sufficient shelter, proper medical attention, and all basic physical requirements of a healthy and vigorous life.
2. Development Rights refer to the rights of a child to education to develop her or his personality, talents and mental physical abilities to the fullest extent. These also include participation in cultural activities, access to appropriate and relevant information, and opportunities for rest, play and leisure. The following are the development rights:
- a.) Every child has the right to a well-rounded development of her or his personality to the end that she or he may become a happy, useful, and active member of society specifically;
 - (1) The gifted child shall be given the opportunity and encouragement to develop her or his special talents;
 - (2) The emotionally disturbed or socially maladjusted child shall be treated with sympathy and understanding, and shall be entitled to medical treatment, *psychosocial* and competent care;
 - (3) The physically or mentally challenged child shall be given medical treatment, education and care required by her or his particular conditions;
 - b.) Every child has the right to be brought up in an atmosphere of morality for the enrichment and the strengthening of her or his character;
 - c.) Every child has the right to grow up as a free individual in an atmosphere of peace, understanding, tolerance and universal sisterhood/brotherhood, and with the determination to contribute her or his share in the building of a better world.
 - d.) Every Child shall be given equal opportunity to quality education. Basic education must be compulsory. The education of the child shall be directed to:
 - (1) The development of the child's personality and mental and physical abilities to the fullest extent;
 - (2) The preparation of the child for responsible adult life in a free society;
 - (3) The development and respect for the child's parents, her or his cultural identity, language and values and the cultural background and values of others;
 - (4) The development and respect for the natural environment.
 - e.) Every child has the right to full opportunities for a safe and wholesome recreation and activities, as well as social for the wholesome use of her or his leisure hours.
 - f.) Every child has the right to live in a community and society which can offer her or him an environment free from pernicious influences and conducive to the promotion of her or his health and the cultivation of her or his desirable traits and attributes.
3. Protection rights covers those rights protecting the child from all forms of abuses and discrimination such as protection from cruelty, torture, arbitrary separation from family,

abuses in the justice and penal system, involvement in armed conflict, child labor, drug and sexual abuses and exploitation.

4. Participation rights refer to the child’s rights to participate in matters affecting him or her most by providing all appropriate venues where he or she can express his or her opinions freely and to have these opinions taken into account, involvement in decision-making and a consultative process, freedom of association and peaceful assembly.

The following are the participation rights:

- a.) Every child has the right to be provided the opportunity to be heard in any judicial and administrative proceedings affecting him or her, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national laws;
- b.) Every child has the right to freedom of thought, conscience and religion, subject to appropriate parental guidance;
- c.) Every child has the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kinds;
- d.) Every child has the right to express his or her opinions freely and to have these opinions into account in any matter or procedure affecting him or her.
- e.) Every child has the right to privacy and shall be protected against unlawful interference of such privacy, family, home or correspondence and to unlawful attacks against his or her honor and reputation.

Section 2. *Responsibilities of the Child.* Every child, regardless of their circumstances of birth, sex, religion, social status, political antecedents and other factors shall:

- a) Strive to lead an upright and virtuous life in accordance with the doctrine of his or her religion, the teaching of his or her elders and mentors, and the bidding of a clean conscience;
- b) Love, respect and obedience to his or her parents, and cooperation with them in the strengthening of a family;
- c.) Extend to his or her brothers and sisters love, thoughtfulness and helpfulness and endeavor with them to keep the family harmonious and united.
- d.) Exert his or her utmost ability to develop his or her potentials for service, particularly by undergoing a formal education suited to his or her abilities, in order that he or she may become an asset to himself or herself and to society.
- e.) Respect not only his or her elders but also the customs and traditions of his or her people, the memory of his or her people’s heroes, the duly constituted authorities, laws of the country and the principles and institutions of democracy.
- f.) Actively participate in civic affairs and in the promotion of the general welfare, recognizing that it is the children who will eventually be called upon to discharge the responsibility of leadership in shaping the nation’s future; and
- g.) Help in the observance of individual human rights, the strengthening of freedom everywhere, the fostering of cooperation among nations in the pursuit of their common aspirations for unity and prosperity and the furtherance of world peace.
- h.) The steward of flora and fauna and the impending climate change.

ARTICLE III

ROLES AND FUNCTIONS OF VARIOUS SECTORS

Section 1. *The Family.* The family is the basic unit of society responsible for the primary socialization of children, which is important in the prevention of children’s rights violations. Governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued.

1. To enjoy protection from and against abuses and labor related concerns as mandated by Republic Act 7610, otherwise known as “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES” as amended.
2. To be protected from harassment and human trafficking in accordance with the applicable provisions of Republic Act 9208 (as amended to RA 10364) otherwise known as “AN ACT TO INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION AND SUPPORT OF TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS, AND FOR OTHER PURPOSES” and its implementing Rule and Regulations.
3. To enjoy all the protection and privileges guaranteed under republic Act 9344, otherwise known as “AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT OF JUSTICE, APPROPRIATING FUNDS THEREFORE AND FOR OTHER PURPOSES” and its implementing Rules and Regulations.
4. To be granted special protection or government intervention in case parents, guardian and other person exercising parental authority fails or unable to protect from abuses a mandated by RA9231, otherwise known as “AN ACT OF PROVIDING FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOR AND AFFORDING STRONGER PROTECTION FOR THE WORKING CHILD”.
5. An Act Prohibiting the Employment of Children below 15 years of Age in Public and Private Undertakings-RA7658
6. To be protected from all forms of violence and shall have all the protection of law covered by Republic Act 9262, otherwise known as “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE AND FOR OTHER PURPOSES”, its amendment and implementing Rules and Regulations.
7. To be provided with assistance and protection in cases covered by Republic Act 8505, otherwise known as “AN ACT PROVIDING ASSISTANCE FOR RAPE VICTIMS, ESTABLISHING FOR THE PURPOSE A RAPE CRISIS CENTER IN EVERY PROVINCE AND CITY, AUTHORIZING THE APPROPRIATION OF FUNDS THEREFORE, AND FOR OTHER PURPOSES” and its implementing Rules and Regulations.
8. To be given adequate governmental support on compulsory immunization as mandated by Republic Act 7846, otherwise known as “AN ACT REQUIRING COMPULSORY IMMUNIZATION AGAINST HEPATITIS-B FOR INFANTS AND CHILDREN BELOW EIGHT (8) YEARS OLD, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 996, AND APPROPRIATING FUNDS THEREOF”.

9. To be protected from torture or any cruel, inhuman or degrading treatment or punishment and other physical harm. He/she shall enjoy government's support and program that shall provide for the physical, mental, psychological healing and development while in the custody of the authority, pursuant to Republic Act 9745, otherwise known as "THE ANTI-TORTURE ACT OF 2009" and its implementing rules and regulation.
10. To avail of government incentive program upon qualification as mandated by Republic Act 7323, otherwise known as "AN ACT TO HELP THE POOR BUT DESERVING STUDENTS PURSUE THEIR EDUCATION BY ENCOURAGING THEIR EMPLOYMENT DURING SUMMER AND/OR CHRISTMAS VACATIONS, THROUGH INCENTIVES GRANTED EMPLOYERS, ALLOWING THEM TO PAY ONLY SIXTY PER CENTUM OF THEIR SALARIES OR WAGES AND THE FORTY PER CENTUM THROUGH EDUCATION VOUCHERS TO BE PAID BY THE GOVERNMENT, PROHIBITING AND PENALIZING THE FILING OF FRAUDULENT OR FICTITIOUS CLAIMS AND FOR OTHER PURPOSES" and its Implementing Rules and Department of Labor Administrative Issuances.

Section 2. *Primary Right of Parents.* The family has the primary responsibility of nurturing and protecting children from infancy to adolescence. Introduction of children to the culture, values and norms of their society shall begin in the family. The parents shall have the right to the company of their children and in relation to all other persons or institution dealing with children's development, the primary rights and obligations to provide for their upbringing.

Section 3. *Rights to Family Code.* Parents shall continue to exercise the rights mentioned in Article 209 to 237 as amended by 6809 of the Family Code over the person and property of their children.

Section 4. *Rights to Discipline Children.* Parents have the right to discipline their children as may be necessary for the formation of their good character, provided it does not fall under the prohibited acts mentioned in this Code. Parents may require from their children obedience to just and reasonable rules, suggestions and admonitions.

Section 5. *General Duties of Parents.* Parents shall have the following general duties toward their children:

- a) To give them affection, companionship and understanding;
- b) To extend to them the benefits of moral guidance, self-discipline and religious instruction;
- c) To supervise their activities, including their recreation;
- d) To inculcate in them the value of industry, thrift and self-reliance;
- e) To stimulate their interest in civic affairs, teach them the duties of citizenship and develop their commitment to their country;
- f) To advise them properly on any matter affecting their development and well-being;
- g) To provide them with adequate support, as defined in Article 194 of the Family Code and;
- h) To administer their property, if any according to their best interest, subject to the provision of Article 225 and 227 of the Family Code.

Section 6. *Separation of Children from their Families.* Every effort shall be made to prevent the separation of children from their families. Whenever children are separated from their families owing to *force majeure* or their own interest, arrangement shall be made for appropriate alternative family care or institutional placement, due regard being paid to the desirability of continuity in children's upbringing in their own socio-cultural environment.

Extended families, relative and community institutions shall give support to help meet the special needs of orphaned, displaced and abandoned children. Efforts must be made to ensure that no child is treated as an outcast of society.

Section 7. *Role of Women.* Women in their various duties and responsibilities play a critical role in the well-being of children. Efforts for the enhancement of women's status and their roles in development must begin with girl children. The enhancement of the status of women and their equal access to education, training, credit, reproductive health and other extension services constitute a valuable contribution to a nation's social and economic development.

To achieve that and to prepare women for their various roles, equal opportunity shall be provided for the girl children for them to benefit from the health, nutrition, education and other basic services for their full development.

Section 8. *Role of Fathers.* Fathers play a vital role in their children's lives, in nurturing and rearing of children at home. Policies and legislation shall be enacted and programs shall be designed and implemented for the inclusion of their critical role. Fathers shall be equally responsible in the rearing and nurturing of the children in the home and be their role models.

Equal opportunity shall be provided to the boy children for them to benefit from health, nutrition, education and other basic services for their full development.

Section 9. *Role of Educational Institution.* Educational institutions shall work together with parents, community, organizations and agencies concerned with the activities of children and youth, Educational institutions shall incorporate into their curriculum a subject on the rights and responsibilities of children, subject to guidelines set forth by the Department of Education (DepEd) and the Commission on Higher Education (CHED).

Section 10. *Role of the Mass Media.* The mass media shall be made aware of their extensive social role and responsibility as well as their influences to protect the rights of children through positive, fair and responsible journalism. Special attention should be given to effective and drug awareness campaign, delinquency prevention and other related special laws in Article III.

Section 11. *Role of Judicial Institutions.* In the administration of justice, courts, prosecutors and other sectors shall ensure that the rights of children are protected and promoted at all times. They shall conduct programs and activities geared towards enhancing children's rights.

Section 12. *Role of Local Government Units.* The local government units (LGU's) shall come up with comprehensive programs for children and allocate appropriate budgets for their implementation.

Section 13. *Role of Local Councils for the Welfare of Children.* These councils shall, in addition to their existing duties and functions, coordinate with and assist their corresponding LGU's in coming up with comprehensive programs for children and be the primary body to oversee the implementation of such programs.

Section 14. *Role of Sangguniang Kabataan.* The Sangguniang Kabataan (SK) as established under the Local Government Code shall in addition to its powers and functions, actively involves itself in the formulation and implementation of prevention and protection programs for children in the community. It shall coordinate with the local councils or the welfare of children for this purpose.

ARTICLE IV PROGRAMS AND SERVICES FOR CHILDREN

A. Comprehensive Programs for Children

Section 1. *Comprehensive Program for Children.* The city shall, within one (1) year from the *effectivity* of this Code and every three (3) years thereafter, formulated a comprehensive program for children covering at least a three-year period. Such programs shall include *preventive, protective, developmental, participative process* as well as effective *rehabilitation*. *The city shall then emphasize preventive measures against those violating the children's rights namely: prevention of child abuse, juvenile delinquency, drug addiction, mendicancy and other child-related problems.*

Section 2. *The Community Approach.* The community approach shall be given special attention in the comprehensive program for children. This involves addressing community wide issues and improving the overall environment by mobilizing human resources within the community. Volunteerism among members shall be encouraged. Community based programs shall be made available to respond to the special needs, problems, interests and concerns of young individuals. This shall include programs like debriefing, counseling and guidance to children and their families. Another strategy is the creation of a community based parent support group. This group can provide capacity- building help giving practices obtain resources and services, an active listener and can help skills in decision- making.

Achieving effective and functional protection program, the grassroots shall be served by comprehensive laws and policies, and must have data collection and system monitoring. It must be highlighted that families, teachers, religious leaders and elders are considered the protectors of child's rights.

Section 3. *The Family Approach.* Family is considered the basic unit of the society thus the personality of a child is greatly influenced as such. Cultural dimensions embodied mostly its influence. Love, affection, respect, and allowing the child to participate in decision- making molded his well-being to be more confident, high self- esteem, school achiever and empowered. To capacitate more the child's development and to prevent him/ her to become victims of reckless society, activities and resources for every parent to perform: practice positive discipline, promoting positive play and interaction between parent and child, and locating and accessing community services and support. That is parent education.

Section 4. *Process in Formulating Comprehensive Children's Programs.* The process in coming up with Comprehensive Children's Programs shall be participatory and consultative. The LGU in coordination with the Local Council for the *Protection* of Children shall call all sectors concerned, particularly child-focused institutions, NGOs, people's organizations, children councils, educational institutions and government agencies involved with children's concerns like the Department of Social Welfare and Development (DSWD), Department of Health (DOH), and the Department of Education (DepEd) to participate in the planning process.

Every child shall bear in mind that they too have a responsibility to their community. Programs like tree planting, barangay clean-up, register as young volunteers and other city and barangay advocacies to allow them to participate, to be involved and appreciate their ownership to the program, preserve the environment and heighten love of country. They must inculcate in their minds the lessons of history and the opportunity of tomorrow.

The LGU should see to it that the children and youth themselves participate in the formulation, development and implementation of these programs, particularly in the identification of needs.

Section 5. *Periodic Review and Assessment of the Comprehensive Children's Program.* The Comprehensive Children's Programs shall be reviewed and assessed yearly by the LGUs in coordination with the local councils for the welfare of children. The programs shall be reviewed by the Provincial Council for the Welfare of Children, as to their effectivity in preventing children's rights violations based on the indicators identified in the program.

Periodic visitation is done to check and evaluate if conducted programs are still relevant and effective to time. Thus data collections must be done to determine gaps, identify root cause of the problem to give specific intervention.

B. Programs to Prevent Children's Rights Violations

Section 6. *Prevention Programs.* Preventive programs shall be an important component of the Comprehensive Children's Programs. These shall be implemented by the LGUs through the Local Council for the Welfare of children, schools, youth organizations and other concerned agencies. These programs shall consist of three levels:

- a.) Primary prevention – general measures to promote special justice and equal opportunity which tackle perceived root cause/s of children's rights violations such as poverty, inaccessibility to health and education, and other forms of marginalization;
- b.) Secondary prevention – measures to assist children who are identified as more prone to risks whose parents are themselves in difficult situation or their inability to provide love and care.
- c.) Tertiary prevention – strategies to avoid and prevent repetitive violative acts against children's rights.

In all three levels of prevention, appropriate intervention should be pursued primarily in the overall interest of the young individuals guided by fairness and equity.

C. Other Proactive Programs

1. Parenting Orientation Programs/ Courses

Section 7. *Parenting Orientation Programs or Courses.* This is to help parents understand what their children will experience in school so they can be more supportive, less anxious, and able to cope with letting go. This is also a fantastic opportunity where parents are introduced into campus resources, particularly peers, student counseling and what to expect in the coming year.

- a.) Parenting Orientation *Programs or Courses* shall be integrated into the curriculum to all high school in San Carlos City subject to DepEd rules and regulations.
- b.) As a follow-up to the Parenting Orientation Program/ Course I, parents / guardians shall also be encouraged to participate in a Parenting Orientation Program/ Course II within the duration of the school year. This is applicable to either public or private primary or secondary institution.
- c.) Such program can also be incorporated during Parent-Teacher Association (PTA) activities within the school year in elementary and high school levels.
- d.) Parents and guardians can avail of the programs like an Orientation on the Rights of a Child, The Making of a Brilliant Child, Preventing School Dropouts, anti- Bullying, anti- Smoking, anti- Drug campaign, STI's, Early Pregnancy. Other programs against issues on Violence against Women and Children, Gender Sensitivity and others.

The (City Council for the Welfare) Local Council for the Protection of Children, *DepEd* and the Office of the City Social Welfare and Development shall initiate the designing of modules for these programs/ courses in close coordination with NGOs with child-focused programs.

2. Health Care

Section 8. *Primary Health Care Programs.* The City Government of San Carlos shall prepare plans, programs, activities for health care and nutrition. It is also a must that every program implemented are evaluated and monitored to determine status thereby achieving sustainability. This concerted effort is made possible the LGU, City Health Office and the Office of the City Social Welfare and Development.

Section 9. *Promotion of Primary Health Care Programs.* The barangay health centers shall implement the primary health care programs. Each barangays must have an experienced *registered* midwife to monitor mother and child's health.

To further ensure the implementation of this Section, the City Government of San Carlos shall take appropriate measures:

- a.) To prevent onset of diseases and malnutrition within the framework of primary health care through inter alia application of readily available technology and through provision of adequate, well-prepared nutritious foods and potable drinking water, taking into consideration the dangers and risks of environmental pollution, food and water borne diseases and the importance of handwashing.
- b.) To establish a comprehensive Parents Orientation Development Program which includes gender-responsive courses on reproductive health, child health and child-rearing practices in the context of the Filipino psychology,
- c.) To ensure the full implementation of Milk Code of the Philippines;
- d.) To conduct massive information and education campaign on breastfeeding, utilizing existing reference materials for effective breastfeeding education program and ASIN Code.

Section 10. *Child and Gender Sensitivity Training for Health Workers.* All city and barangay health workers shall be required to attend training courses on child and gender sensitivity to be conducted by organizations duly accredited by the City Council for the Welfare of Children.

Section 11. *Child and Family-Friendly Hospitals in San Carlos City*

All hospitals in the City of San Carlos shall set up child-friendly units to include rooming-in facilities and pediatric-appropriate mechanisms and gadgets. They shall also not deny husbands/partners access inside the delivery room during delivery of their wives/partners.

Section 12. *Program for Children with Special Needs.* The City Government of San Carlos shall make a periodic child-focused and child-specific comprehensive survey on children with disabilities in the city, (as basis for more systematic coordination of services (health, nutrition and education) for children's with special needs) and must be classified as male and female. This will serve as basis for a more systematic coordination of services (health, nutrition and education) and gender- based sensitive.

Section 13. *Educators and Health Professionals Training for the Special Program on Children with Special Needs.* A training program for educators and health professionals handling children with disabilities and special needs shall form part of the priority of the City Government of San Carlos.

3. Under Six Program and Establishment of Day Care Centers

Section 14. *Under Six Program Framework.* The City Government of San Carlos shall ensure the maximum survival and development of the child. The program on survival and development shall include the following:

- a.) Monitoring of registration of births and the completion of the immunization series for prevention of tuberculosis, diphtheria, pertussis, tetanus, measles, poliomyelitis and such other disease for which vaccines have been developed for administration to children up to six (6) years of age;
- b.) The barangay officials and their Barangay-level support systems, may call upon law enforcement agencies when there is an abused, neglected and exploited child who needs to be rescued from an unbearable home situation;
- c.) A Reproductive Health Care Center for pregnant mothers, for prenatal and neo-natal care and, in the proper case, for delivery of the infant under conditions which will eliminate or minimize risks to mother and child; Provided, that high-risk mothers shall be referred to the proper tertiary or secondary care service personnel of facility and children who are at risk from any condition or illness will be brought thereto for care;
- d.) A Barangay level network of assistance from among the adults of the community for the total development and protection of children;
- e.) Unstructured combined with structural learning exercises for children under childhood education shall be instituted in the day care centers respecting the participation rights of the child.
- f.) A pool of trained day-care or child development workers with an upgraded salary scheme commensurate to the tasks assigned to them.

Section 15. *Setting of Population-Based Day-Care Center.* Pursuant to Republic Act 6972 or the Barangay-Level Total Development and Protection of Children Act, day-care shall be set up in every barangay in the City of San Carlos. The number of such Centers shall depend on the population level of the children and how depressed the Barangay is as determined by the City Council for the Welfare of Children in coordination of the City Social Welfare & Development Office.

Section 16. *Importance of Day-Care Services.* Day-care service addresses the physical, mental, social and emotional needs during the crucial stages of a child's growth and development. By the age of seven (7), a child's brain has already grown to 75 percent of its adult weight and much of the way he/she envisions and interacts with the world has been shaped. Thus, the child's formative years and the care that he/she gets during this period would significantly affect his/her learning capacity, personal and social interaction well into adulthood.

While parents have the primary responsibility to provide for their children's physical, emotional, psychological, mental and social needs, day-care service aims to supplement the inability of some parents to provide their children with the proper care and home environment.

Specifically, the Day-Care Center aims to help the child:

- a.) Become physically fit through proper care and nutrition;
- b.) Develop self-confidence, self-expression and self-discipline;
- c.) Relate well with others;
- d.) Develop mental, intellectual, verbal and psychomotor skills;
- e.) Develop strong, spiritual, socio-cultural and nationalistic values as well as positive attitudes towards the family, community and society in general;
- f.) Be protected from all forms of neglect, abuse, cruelty and exploitation.

Section 17. *Setting Up of Day-Care Center by Community-Based Organization.*

Community-based organizations can help mobilize resources to complement the efforts of LGUs in establishing day-care centers in their communities. In this way, more children needing attention can be reached.

Section 18. *Day-Care Worker and Support Group.*

- a.) The local government unit/Barangay shall pay for the day-care workers' (DCW) allowance and salary. The CSWD shall provide continuing technical assistance to the center.
- b.) A community Volunteer Parents Group shall be organized to serve as an effective support group to the center. The volunteer group shall help mobilize resources for the improvement of the center, acquisition of more learning materials and play equipment, and other support activities.

4. Recreational and Cultural Programs

Section 19. *Barangay-Level Recreational and Cultural Facilities and Program.* A barangay level program for the revival of indigenous games, song, dances shall be undertaken by Cultural and Arts Council of the City of San Carlos. Every barangay in the city shall allocate space for recreational facilities appropriate for different age groups. A year-round cultural program appropriate for the different age groups shall be designed with due respect to cultural diversity.

Section 20. *Local Children's Literature.* In support of the thrust for the socio-cultural development of children in the city of San Carlos, LGUs shall invest in the promotion and production of local literature for children and other relevant educational materials.

Section 21. *Other Child-Friendly Facilities.* Local government units in partnership with NGOs and civic organizations are also encourage to put up and maintain other child-friendly facilities such as but no limited to limited to libraries, museums, parks and playgrounds.

5. Children's Month and Children Day Celebration

Section 22. *October as Children's Month.* In keeping with the mandate of Presidential Proclamation No. 267 signed on September 30, 1993 declaring the month of October as national children's month, the local Councils for the Welfare of Children shall conduct child-focused activities for the month promoting the rights and responsibilities of Filipino children as well as the obligations of the people and institutions responsible in ensuring the well-being of Filipino children.

D. Crisis Intervention Program

Section 23. *Establishment and Rationale of the Crisis Center.* In recognition to the special need for protection, assistance and development of children in consonance with the spirit of the Constitutional provisions and Republic Act No. 7610 mandating the protection against child abuse, exploitation and discrimination, and likewise Republic Act 8505 mandating the establishment of a Crisis Center in every province and city authorizing the appropriation of funds therefore, a crisis intervention center shall be established in the Province of Negros Occidental. Services of the center shall not be limited to abused children but shall equally cater to the other vulnerable sectors of society particularly women.

Section 24. *Objective of the Crisis Intervention Center.* The Crisis Intervention Center shall have the following objectives:

- a.) To provide temporary shelter and basic services to children at risk, and abused children and women;
- b.) to network with non-government organizations and government agencies for the provision of the needed medical, psycho-social and legal services necessary in resorting/building the self-esteem of its clients;
- c.) To encourage and build the capacities of children at risk, and abused children and women to come into the open and pursue cases in court whenever they are ready;

- d.) to provide life skills and livelihood training to children at risk, and abused children and women while in the center to enable them to be productive and as a form of therapy;
- e.) to provide livelihood assistance and placement to children at risk, and abused children and women who are ready to be reintegrated with their families and communities;
- f.) To conduct a city-wide education and advocacy program aimed at raising public awareness on the evils of child abuse and domestic violence, and a massive information dissemination on the rights of children and women;
- g.) To link up with provincial city and local government entities mandated to formulate and enforce legislation aimed at the protection of children and women for policy reforms and enforcement of laws.
- h.) To create a data base to store pertinent information relevant for study to derive quantitative interpretations and analysis.

Section 25. *Organizational Structure, Management and Operations of the Center.* Organizational structure illustrates the relationships and relative ranks of job positions within the organization. It helps determine line of authority, accountability, responsibility and directs who to turn to when needed.

- a.) The City Council for the *Protection* of Children will formulate the organizational structure of the center depending on the need for its services;
- b.) The member agencies of the City Council for the Welfare of Children and other national agencies and NGOs which have pledged support for the center will sign a Memorandum of Agreement for their commitment of service or resources to ensure the sustainability of the center's services;
- c.) The center will be under the supervision of the Office of the City Social Welfare and Development.
- d.) The office of the City Social Welfare and Development and the City Council for the Welfare of Children, in coordination with LGUs concerned, shall issue the necessary rules, policies, regulations and guidelines for the effective implementation of the programs of the center.

Section 26. *Budget Allocation for the Crisis Intervention Center Operations and Maintenance.*

The City Government of San Carlos shall provide support for the construction, maintenance and continued operations of the crisis intervention center by appropriating specific funds which shall form part of the Office of the City Social Welfare and Development's annual appropriation.

ARTICLE V SPECIAL CONCERNS

A. Prohibited Acts

Section 1. *Prohibited Acts.* In addition to all acts defined and penalized under Republic Act 7610 on Child Abuse and Exploitation, Republic Act 7658 on Child Labor and other pertinent laws, the following shall likewise be punishable:

- a) **Illegal Recruitment** – Any person who recruits other persons for work shall be required to register with the secure permit from the Office of the Barangay Captain in the place of recruitment with an undertaking not to recruit children. There is a presumption of illegal trafficking when a person is found together with three or more minors not his/her relatives at the port of exit for the purpose of transporting the minors to another place without any permit from the Barangay Captain.
- b) **Peonage of Children** – Offering a child *in a form of services* as payment *to* a debt or in exchange for a favor, such as but not limited to;

1. Working in agricultural industries like rice and corn plantations or sugar farms.
 2. Working as house helpers.
- c) Pre-arrangement for Marriage – Pre-arrangement (buya) made by parents or guardians to marry off their children or wards. One manifestation of pre-arrangement may be two (2) families meet to seriously talk about the marriage of their children to each other.
 - d) Using Girls as Commodities in Benefit Dancers – Organizers of benefit dances, persons facilitating or anchoring such benefit dances shall be penalized under this section if they shall use children as dancing partners for payment or free to the organizers;
 - e) Discrimination of Illegitimate Children – For schools to discriminate illegitimate children include but not limited to the following:
 1. Refusal to accept enrollment of illegitimate children in the school by reason of one's illegitimacy
 2. Requiring the marriage contract of parents as a requirement for enrollment of the child.
 - f) Expulsion by Reason of Pregnancy – For schools to impose a penalty of expulsion against a child who has complied with all academic requirements by reason of her pregnancy. Schools may impose any other appropriate measures which shall be made applicable to both the pregnant girl and her partner if in case enrolled in the same school;
 - g) Refusal of Graduate by Reason of Pregnancy – For schools to refuse a child to graduate who has complied with or is willing to comply with all academic requirement by reason of pregnancy.
 - h) Refusal of Issue Clearances by Reason of Pregnancy – For schools to refuse to issue clearances to a child by reason of pregnancy,
 - i) Physical and Degrading Forms of Punishment – Subjecting the child to physical and degrading forms of punishment such as, but not limited to the following:
 1. Ordering or directing a child to kneel on salt or the like;
 2. Placing a child inside a sack and/or hanging him/her,
 3. Shaving the head of a child;
 4. Harsh whipping of a with the tail of stingray (pagi), stick, belt and other similar objects;
 5. Stripping a child of his/her clothes;
 6. Locking up a child in a cabinet or aparador or any closed structure;
 7. Trying up the child or otherwise detaining him/her,
 8. Throwing objects such as but not limited to erasers, chalk and notebooks at the child;
 9. Pulling the hair of the child;
 10. Making the child stand under the heat of the sun;
 11. Exposing the child to be bitten by ants.
 12. Other forms of physical abuse
 - j) Pushing/Enticing Minors to Live-In Arrangements – It shall be unlawful for parents to entice, encourage and/or push their children to live together with any person as husband and wife in exchange for money or any other consideration;
 - k) Sexual Exploitation on Minors – Sexual exploitation of children by any person, foreigner or otherwise, shall be prohibited. Consorting with children not related by

affinity or consanguinity, with public display of lascivious conduct shall be considered *prima facie evidence* of sexual exploitation;

- l) Entry, Selling and Distribution of Pornographic Materials – The local councils for the welfare of children/local law enforcers shall monitor and prevent the entry of pornographic materials. It shall be unlawful for any person to sell and distribute such materials;
- m) Selling Liquor, Cigarettes, Rugby, cough syrup and Other Addicting Substances to a Child – It shall be unlawful for any person to sell liquor, cigarette, rugby or any addicting substance to child.
- n) Smoking in Closed Places and Public Conveyances – Smoking in any closed place or public places and conveyance shall be prohibited.
- o) Selling firecrackers, pyro techniques and homemade devices to children and their use of the same.

The above acts which are likewise punishable in R.A. 7610 or the Child Abuse Act R.A. 7658 on Child Labor, the Revised Penal Code, or other pertinent national laws shall be penalized thereunder.

B. Children in Situation of Armed Conflict

Section 2. *Protection for Children* – Children in situation of armed conflict shall be considered victims and shall be afforded full protection in accordance with the provisions of R.A. 7610 of the Anti-Child Abuse Act.

C. Children of Indigenous Peoples

Section 3. *Rights of Children of Indigenous People.*

- a.) In addition to the rights guaranteed to children under this Code and existing laws, children of indigenous peoples shall be entitled to protection, survival, development and participation consistent with the customs and traditions of their respective communities.
- b.) The City Council for the Welfare of Children in coordination with the local DEP-ED division office shall develop and institute an alternative system of education for children of indigenous peoples which is culture-specific and relevant to their needs.
- c.) The delivery of basic social services in health and nutrition to children of indigenous cultural communities shall be given priority. Hospitals and other health institutions shall ensure that children of indigenous peoples are given equal attention. In the provisions of health and nutrition services to children of indigenous peoples, indigenous health practices shall be respected and recognized.
- d.) Children of indigenous peoples shall not be subjected to any form of discrimination.

D. Juveniles

Republic Act No. 9344

An act establishing a comprehensive juvenile justice and welfare system, creating the juvenile justice and welfare council under the department of justice, appropriating funds therefore and for other purposes.

SEC. 4. *Definition of Terms.* The following terms as used in this Act shall be defined as follows:

- (a) “Bail” refers to the security given for the release of the person in custody of the law, furnished by him/her or a bondsman, to guarantee his/her appearance before any

court. Bail may be given in the form of corporate security, property bond, cash deposit, or recognizance.

- (b) “Best Interest of the Child” refers to the totality of the circumstances and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child’s physical, psychological and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development of the child.
- (c) “Child” refers to a person under the age of eighteen (18) years.
- (d) “Child at Risk” refers to a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances, such as, but not limited to the following:
 - 1) being abused by any person through sexual, physical, psychological, mental, economic or any other means and the parents or guardian refuse, are unwilling, or unable to provide protection for the child;
 - 2) being exploited including sexually or economically;
 - 3) being abandoned or neglected, and after diligent search and inquiry, the parent or guardian cannot be found;
 - 4) coming from a dysfunctional or broken family or without a parent or guardian;
 - 5) being out of school;
 - 6) being a street child;
 - 7) being a member of a gang;
 - 8) living in a community with a high level of criminality or drug abuse; and
 - 9) living in situations of armed conflict.
- (e) “Child in Conflict with the Law” refers to a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws.
- (f) “Community-based Programs” refers to the programs provided in a community setting developed for purposes of intervention and diversion, as well as rehabilitation of the child in conflict with the law, for reintegration into his/her family and/or community.
- (g) “Court” refers to a family court or, in places where there are no family courts, any regional trial court.
- (h) “Deprivation of Liberty” refers to any form of detention or imprisonment, or to the placement of a child in conflict with the law in a public or private custodial setting, from which the child in conflict with the law is not permitted to leave at will by order of any judicial or administrative authority.
- (i) “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 his/her social, cultural, economic, psychological or educational background without resorting to formal court proceedings.
- (j) “Diversion Program” refers to the program that the child in conflict with the law is required to undergo after he/she is found responsible for an offense without resorting to formal court proceedings.
- (k) “Initial Contact With-the Child” refers to the apprehension or taking into custody of a child in conflict with the law by law enforcement officers or private citizens. It 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.

- (l) “Intervention” refers to a series of activities which are designed to address issues that caused the child to commit an offense. It may take the form of an individualized treatment program which may include counseling, skills, training, education, and other activities that will enhance his/her psychological, emotional and psycho-social well-being.
- (m) “Juvenile Justice and Welfare System” refers to a system dealing with children at risk and children in conflict with the law, which provides child-appropriate proceedings, including programs and services for prevention, diversion, rehabilitation, re-integration and aftercare to ensure their normal growth and development.
- (n) “Law Enforcement Officer” refers to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code, including a Barangay Tanod.
- (o) “Offense” refers to any act or omission whether punishable under special laws or the Revised Penal Code, as amended.
- (p) “Recognizance” refers to an undertaking in lieu of a bond assumed by a parent or custodian who shall be responsible for the appearance in court of the child in conflict with the law, when required.
- (q) “Restorative Justice” refers to a principle, which requires a process of resolving conflicts with the maximum involvement of the victim, the offender and the community. It seeks to obtain reparation for the victim; reconciliation of the offender, the offended and the community; and reassurance to the offender that he/she can be reintegrated into society. It also enhances public safety by activating the offender, the victim and the community in prevention strategies.
- (r) “Status Offenses” refers to offenses which discriminate only against a child, while an adult does not suffer any penalty for committing similar acts. These shall include curfew violations, truancy, parental disobedience and the like.
- (s) “Youth Detention Home” refers to a 24-hour child-caring institution managed by accredited local government units (LGUs) and licensed and/or accredited non-government organizations (NGOs) providing short-term residential care for children in conflict with the law who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction.
- (t) “Youth Rehabilitation Center” refers to a 24-hour residential care facility managed by the Department of Social Welfare and Development (DSWD), LGUs, licensed and/or accredited NGOs monitored by the DSWD, which provides care, treatment and rehabilitation services for children in conflict with the law. Rehabilitation services are provided under the guidance of a trained staff where residents are cared for under a structured therapeutic environment with the end view of reintegrating them into their families and communities as socially functioning individuals. Physical mobility of residents of said centers may be restricted pending court disposition of the charges against them.
- (u) “Victimless Crimes” refers to offenses where there is no private offended party.

SEC. 5. Rights of the Child in Conflict with the Law. Every Child in Conflict with the Law shall have the following rights, including but not limited to:

- (a) the right not to be subjected to torture or other cruel, inhuman 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;

- (c) the right not to be deprived, unlawfully or arbitrarily, of his/her liberty, detention or imprisonment being a disposition of last resort, and which shall be for the shortest appropriate period of time;
- (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/her age. In particular, a child deprived of liberty shall be separated from adult offender at all times. No child shall be detained together with adult offenders. He/she shall be conveyed separately to or from court. He/ She shall await his/her own case in a separate holding area. A child in conflict with the law shall have the right to maintain contact with his/her family through correspondence and visits; save in exceptional circumstances;
- (e) 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/her 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/her own behalf under the rule on examination of a child witness;
- (h) the right to have his/her privacy respected fully at all stages of the proceedings;
- (i) the right to diversion if he/she is qualified and voluntarily avails of the same;
- (j) the right to be imposed a judgment in proportion to the gravity of the offenses where his/her 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/her 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;
- (l) in general, the right to automatic suspension of sentence;
- (m) the right to probation as an alternative to imprisonment, if qualified under the Probation Law
- (n) the right to be free from liability for perjury, concealment or misrepresentations; and
- (o) other rights as provided for under existing laws, rules and regulations.

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.

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.

SEC. 7. Determination of Age. The child in conflict with the law shall enjoy the presumption of minority. He/She shall enjoy all rights of a child in conflict with the law until he/she is proven to be eighteen (18) years old or older. The age of a child may be determined from the child's birth certificate, baptismal certificate or any other pertinent documents. In

the absence of these documents, age may be based on information from the child himself/herself, testimonies of other persons, the physical appearance of the child and other relevant evidence. In case of doubt as to the age of the child, it shall be resolved in his/her favor.

Any person contesting the age of the child in conflict with the law prior to the filing of the information in any appropriate court may file a case in a summary proceeding for the determination of age before the Family Court which shall decide the case within twenty-four (24) hours from receipt of the appropriate pleadings of all interested parties.

If a case has been filed against the child in conflict with the law and is pending in the appropriate court, the person shall file a motion to determine the age of the child in the same court where the case is pending. Pending hearing on the said motion, proceedings on the main case shall be suspended.

In all proceedings, law enforcement officers, prosecutors, judges and other government officials concerned shall exert all efforts at determining the age of the child in conflict with the law.

SEC. 11. *Child Rights Center (CRC).* The existing Child Rights Center of the Commission on Human Rights shall ensure that the status, rights and interests of children are upheld in accordance with the Constitution and international instruments on human rights. The CHR shall strengthen the monitoring of government compliance of all treaty obligations, including the timely and regular submission of reports before the treaty, as well as the implementation and dissemination of recommendations and conclusions by government agencies as well as NGOS and civil society.

SEC. 15. *Establishment and Strengthening of Local Councils for the Protection of Children.* Local Councils for the Protection of Children (LCPC) shall be established in all levels of local government, and where they have already been established, they shall be strengthened within one (1) year from the effectivity of this Act. Membership in the LCPC shall be chosen from among the responsible members of the community, including a representative from the youth sector, as well as representatives from the government and private agencies concerned with the welfare of children.

The local council shall serve as the primary agency to coordinate with and assist the LGU concerned for the adoption of a comprehensive plan on delinquency prevention, and to oversee its proper implementation

One percent (1%) of the internal revenue allotment of barangays, municipalities and cities shall be allocated for the strengthening and implementation of the programs of the LCPC. Provided that the disbursement of the fund shall be made by the LGU concerned.

SEC. 16. *Appointment of Local Social Welfare and Development Officer.* All LGU shall appoint a duly licensed social worker as its local social welfare and development officer tasked to assist children in conflict with the law.

SEC. 17. *The Sangguniang Kabataan.* The Sangguniang Kabataan (SK) shall coordinate with the LCPC in the formulation and implementation of juvenile intervention and diversion programs in the community.

TITLE IV TREATMENT OF CHILDREN BELOW THE AGE OF CRIMINAL RESPONSIBILITY

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 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. Said authority shall give notice to the local social welfare and development officer who will determine the appropriate programs in consultation with the child and to 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 duly registered nongovernmental or religious organization; a barangay official or a member of the Barangay Council for the Protection of Children (BCPC); a local social welfare and development officer, or when and where appropriate, the DSWD. If the child referred to herein has been found by the Local Social Welfare and Development Office to be abandoned, neglected or abused by his parents, or in the event that the parents will not comply with the prevention program,. The proper petition for involuntary commitment shall be filed by the DSWD of the Local Social Welfare and Development Office pursuant to Presidential Decree No. 603, otherwise known as "The Child and Youth Welfare Code".

Authorities shall refrain from employing threats of whatever kind and nature and/or abusive, coercive, and punitive measures in dealing with minors. Such practices, whether committed directly or indirectly by persons in authority, their representatives, or any other person acting under them or in their behalf- such as cursing, beating, stripping and detaining minor in cells – shall be dealt with administratively and criminally;

- a.) Likewise, degrading, inhuman and cruel forms of punishment such as shaving the heads of minors, pouring irritating, corrosive or harmful substance over their bodies or forcing minors to walk around the community wearing signs which embarrass, humiliate and degrade their personhood and dignity and which harm them psychologically, emotionally, spiritually, morally and physically shall be prohibited.
- b.) No minors shall likewise be made subject to involuntary servitude in any and all forms under any and all instances by their arresting officers and/or custodians. Designating and/or compelling minors to act and serve as errand boys/girls, cleaners, helpers are also prohibited.

Section. 62. *Diversion Programs.* Where the parties and/or the competent authorities decide that the child must undergo a diversion program, such a continuing program for the rehabilitation and reintegration of the child shall be formulated with the cooperation of the complainant and the child.

Section 63. *Factors in Determining Diversion Program.* In determining whether diversion is appropriate and desirable the following factors shall be taken into consideration:

- a.) The nature and circumstances of the offense charged;
- b.) The frequency and severity of its occurrence;
- c.) The character and reputation of the child
- d.) The circumstances of the accused child (e.g. age, intelligence, etc.)
- e.) The influence of the family and environment on the growth of the child;
- f.) The emotional relief of the victim;
- g.) The weight of the evidence against the child; and,
- h.) The safety of the community.

Section 64. *Criteria for Formulating Diversion Programs.* In formulating a diversion program, the individual characteristics and the peculiar circumstances of the child shall be used to formulate an individualized treatment. The following factors shall be considered in formulating a diversion program for the child.

- a.) The child's feelings of remorse for the offense he or she committed;
- b.) The parent's or legal guardians' ability to guide and supervise the child;
- c.) The victims views about the propriety of the measures to be imposed;
- d.) The availability of community-based program for rehabilitation and re-integration of the child;

Section 65. *Diversion Program.* The diversion program shall include adequate socio-cultural and psychological responses and services for the child. Diversion programs can include, but are not limited to the following:

- a.) Written and oral reprimand or citation;
- b.) Restitution of property
- c.) Reparation of the damage caused
- d.) Indemnification of consequential damages;
- e.) Confiscation and forfeiture of the proceeds or instrument of the crime,
- f.) Fine;
- g.) Payment of cost of the proceeding;
- h.) Written or oral apology.
- i.) Guidance and supervision orders,
- j.) Counseling for the child and the family;
- k.) Training, seminars, lectures on: (a) anger management skills; (b) problem solving and/or conflict resolution skills (c) values formation; and (d) other skills which will aid the child to deal with situations which can lead to re-offending.
- l.) Community-based programs available in the community;
- m.) Institutional care and custody

Section 66. *Criteria of Community-Based Program.* Every city and municipality shall established programs, through the local government unit, that will focus on the rehabilitation and reintegration of the child. All programs shall meet the following criteria:

- a.) Its primary purpose shall be the rehabilitation and reintegration of the child;
- b.) Refers to such programs shall need the consent of the child and the parents or legal guardians
- c.) The participation of other child-centered agencies, religious, civic and other organizations will be allowed.

Section 68. *Community for Diversion Program.* In all cases where a child is required to undergo a diversion program, the following conditions shall be mandatory:

- a.) A contract of diversion containing the diversion programs to be undergone by the child shall be signed by the authority concerned and the child;
- b.) The child shall present himself or herself to the competent authorities that imposed the diversion program at least once a month reporting and review of the effectiveness of the program;
- c.) The child shall cooperate and faithfully comply with the conditions in the contract;
- d.) The child shall permit the competent authorities and/or the local social welfare and development officer to visit the child's home;
- e.) The child and other parties concerned shall satisfy other conditions related to the diversion program as long as such conditions are not contrary to law, morals and good customs. Such other conditions shall be considered void and shall not affect the conditions that are validly agreed upon and written in the contract of diversion.

Section 69. *Applicability of the Katarungang Pambarangay.* The Katarungang Pambarangay Law shall be applied as part of the diversion process for offenses punishable by imprisonment not exceeding one (1) month or a fine not exceeding One Thousand Pesos (P1,000.00).

Section 70. *Training of the Lupong Tagapamayapa.* In addition to the requirement provided in Section 399 of the Local Government Code, the members constituting the Lupong shall be provided with regular training by the local government unit concerned, in cooperation with the local social welfare and development officer and NGOs specializing in

children, which training shall include among others, conflict management and mediation skills, paralegal seminars on laws on children, and child psychology.

Section 71. *Assistance of Child by Parents.* Any agreement resulting in Barangay conciliation shall also be signed by the child with the assistance of any of the following in the following order: the parent/s, legal guardian, local social welfare and development officer, a relative, a member of a child-focused group, or a member of the Barangay Council for the Protection of Children concerned. Otherwise, such documents shall be null and void.

Section 72. *Referral to Diversion Programs.* In the process of conciliation, the Lupon or the Pangkat as the case may be shall encourage the inclusion of community service program or other forms of diversion to be included in the settlement.

Section 76. *Manner of Investigation of a Juvenile.* A child shall only be investigated or his/her statement secured in the presence of any of the following in the following order: his/her parents/guardian, the nearest relative, member of a child-focused group, religious group, member of the Barangay Council for the Protection of Children concerned or the local social welfare and development officer, and his/her counsel. In their presence, the child shall be informed of his/her constitutional rights to remain silent and to competent and independent counsel of his/her own choice in a language that is clearly understood by the child, the parents or guardian.

If the child cannot be presented by counsel of his/her own choice, he may be referred to the Public Attorney's Office for assistance. Any confessions and admissions in violation of these rights are inadmissible as evidence against the child. In no case shall deceit, false promises, intimidation or harassment be employed against the child. Respect for the human rights of the child, as provided by both international and Philippine laws, shall be of paramount consideration during the custodial investigation.

Section. 77. *Diversion, When Proper.* Where there is no private offended party, where the offended party and the child give consent to a diversion, the CYRU or CYRO in consultation with the child's parents/guardian, the nearest relative, member of a child-focused group, member of a religious group, member of the Barangay Council for the protection of Children concerned, or local social welfare and development officer shall formulate a diversion program and refer the child to the appropriate agencies for compliance of the program.

Section 78. *Right of the Juvenile to Counsel.* From custodian investigation and throughout the proceedings, the juvenile shall have the right to be presented by counsel. The arresting officer, prosecutor, or judge shall ensure that the juvenile is represented by counsel before proceeding with the investigation or trial. Any confession or admission made in any proceeding without the assistance of counsel shall be null and void.

Section 79. *Custody and Supervision.* No child shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his make protective custody necessary. The competent authorities conducting diversion proceedings shall immediately commit the child to the custody of the parents or legal guardian who shall be responsible for the presence of the child during the diversion proceedings. In the absence of the parents or legal guardian, the child shall be committed to the care of the nearest relative, a member of the Barangay Council for the Protection of Children, or a local social welfare and development officer. If necessary the local social welfare and development officer in coordination with the DSWD may refer the child to the appropriate child-caring institution.

Section 80. *Confidentiality of Proceeding and Records.* All records and proceedings involving children shall be confidential. The public shall be excluded during all proceedings and the records shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings. The competent authorities shall undertake all measures, including non-disclosure of records to the media, maintaining a separate police blotter for cases involving children and adopting a system of coding to conceal material information

which will lead to the child's identity. Records of juvenile offender shall not be used in adult proceedings in subsequent cases involving the same offenders.

Section 81. *Care and Maintenance of Juveniles.* The parents or other person liable to support the child shall pay the expenses for the care and maintenance of said child whose disposition of the case is institutionalization. The disposition shall include the proportion of support if such person is not capable of paying the whole amount and the rest shall be paid by the local government unit maintaining such a facility.

Section 82. *Reintegration Programs.* The local government units are encouraged to implement reintegration programs for a juvenile who is released by the court. This is for the purpose of preparing the juvenile for integration to the community.

ARTICLE VI REMEDIAL MEASURES AND PENAL PROVISIONS

Section 1. *Persons Who May File a Complaint.* Complaints on unlawful acts committed against children as enumerated herein may be filed by the following:

- a. Offended party;
- b. Parents or guardians;
- c. Ascendant or collateral relative within the third degree of consanguinity;
- d. Officer, social worker or representative of a licensed child-caring institution;
- e. Officer or social worker of the Department of Social Welfare and Development;
- f. Barangay chairperson; or
- g. At least three (3) concerned responsible citizens residing in the community where the violation occurred.

Section 2. *Protective Custody of the Child.* The offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development. In the regular performance of this function, the officer of the Department of Social Welfare and Development shall be free from any administrative, civil or criminal liability. Custody proceedings shall be in accordance with the provisions of Presidential Decree No. 603.

Section 3. *Confidentiality.* At the instance of the offended party, his/her name may be withheld from the public until the court acquires jurisdiction over the case. It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio broadcasting, producer and director of the film in case of the movie industry, to cause undue and sensationalized publicity of any case of violation of this Act which results in the moral degradation and suffering of the offended party.

Section 4. *Reporting.* A person who learns facts or circumstances that give rise to the belief that a child has suffered abuse may report the same, either orally or in writing to the Department of Social Welfare and Development (national office), the Office of the Provincial/Municipal/City Social Welfare and Development, to the law enforcement agency or to the BCPC concerned.

Section 5. *Mandatory Reporting.* The head of any public or private hospital, medical clinic, and similar institution, as well as the attending physicians and nurses, shall report, either orally or in writing, to the above-mentioned department or agency the forty-eight (48) hours from the knowledge of the same.

Section 6. *Duty of the Government Workers to Report.* It shall be the duty of all teachers and administrators in public schools, probation officers, government lawyers, law enforcement officers, Barangay officials, correction officers and other government officials and employees whose work involves dealing with children to report of possible child abuse to the authorities mentioned in the preceding sections.

Section 7. *Failure to Report.* Any individual mentioned in Section 83 who possesses knowledge of a possible child abuse and fails to report the case to the proper authorities shall be punishable under R.A. 7610.

Section 8. *Immunity for Reporting.* Any person who, acting in good faith, reports a case of a child abuse shall be free from any civil or administrative liability arising therefrom. There shall be a presumption that any such person acted in good faith.

Section 9. *Penalties.* For first time offenders, in cases where the offender is the parent or teacher of the child or relative within the fourth degree of consanguinity, if the offender admits the offense and is sincere and willing to reform, the following measures will be imposed:

- a.) Attendance in parenting or any appropriate seminar;
- b.) Community service of ten to fifteen (10-15) days;
- c.) Counseling sessions;
- d.) Family therapy
- e.) Participation in appropriate training course.

For offenses punishable under R.A. 7610, the Revised Penal Code or any other law as well as this Code, the offended party and/or party so authorized shall file a complaint under the national law, and the penalty in such national law shall be imposed.

Failure to comply with pertinent provisions of this Code by the concerned local chief executive, members of legislative bodies and/or head offices or bodies shall constitute dereliction of duty subject to penalties prescribed under the Local government Code and other pertinent law.

ARTICLE VII
BUDGETARY APPROPRIATION

Section 1. *Appropriation for Children’s Programs.* The local government units shall appropriate funds as part of their annual budget for the implementation of children’s programs.

The city shall allocate funds necessary for the implementation of this code, drafting and publication of the IRR, training and orientation of stakeholders, and promotion of this Code to the General public.

ARTICLE VIII
FINAL PROVISIONS

Section 1. *Separability Clause.* If for, any reasons, any part of provision of this Code shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full; force and effect.

Section 2. *Applicability Clause.* All other matters relating to the impositions or regulations provided in this code shall be governed by the pertinent provisions of existing laws and other ordinance. This Code shall apply to all the people within the territorial jurisdiction of the City of San Carlos, barangays and city as well, and to all persons, who may be subject to the provisions of this Code.

Section 3. *Repealing Clause.* All ordinances, resolutions, executive orders and other issuances which are inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.

Section 4. Effectivity Clause. This Code shall take effect after completion of its publication in a newspaper of general circulation within its jurisdiction and posting in at least three (3) conspicuous places in the City of San Carlos Negros Occidental.

ENACTED: AUGUST 9, 2018 by the affirmative votes of Hons. GUSTILO, QUISUMBING, VILLARANTE, CABILI, CUI, MANSUETO, UY, WEE and BACURNAY.

NEGATIVE: None.

X-----X

I HEREBY CERTIFY to the correctness of the foregoing ordinance which was duly enacted by the Sangguniang Panlungsod during its regular session held at the SP Session Hall, this city on August 9, 2018.


MA. CECILIA SUZETTE C. BINGHAY
Secretary to the Sangguniang Panlungsod

**ATTESTED AND CERTIFIED
TO BE DULY ENACTED:**


CHRISTOPHER PAUL S. CARMONA
SP Member/Presiding Officer Pro Tempore

APPROVED ON 10 AUG 2018:


GERARDO P. VALMAYOR, JR.
City Mayor