

WHEREAS, pursuant to the UN declaration of the right of the child the best interest of the child shall be the paramount consideration in the enactment of laws that would enable the child to enjoy special protection, including protection from all forms of neglect, cruelty and exploitation;

WHEREAS, the state recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs;

WHEREAS, the state shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development;

WHEREAS, the natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government;

WHEREAS, the City Government of General Santos has on-going efforts to ensure the safety and well-being of its children;

WHEREAS, it is the policy of the City Government of General Santos to protect the interest of the child from reckless, careless and negligent parents and to shield them from dangerous or predatory situations arising from such irresponsibility;

NOW, THEREFORE, on the motion of City Councilor Shandee Theresa O. Lido-Pestaño, duly seconded by City Councilor _____, be it -

RESOLVED, as it is hereby resolved, to enact the following Ordinance:

ORDINANCE NO. _____
SERIES OF 2017

AN ORDINANCE ENACTING THE GENERAL SANTOS CITY CODE OF PARENTAL RESPONSIBILITY FOR THE PROTECTION OF CHILDREN'S RIGHT

Shandee Theresa O. Lido-Pestaño and
Hon. Franklin M. Gacal, Jr.– Authors/Sponsors

Be it ordained by the Sangguniang Panlungsod of General Santos that:

Section 1.Short Title. - This Ordinance shall be known as the General Santos City Code of Parental Responsibility (CPR).

Section 2.Declaration of Policy. - The grant of the rights and privileges for parents and children.

1. The parents shall have the right to discipline their children as may be necessary for the formation of their good characters and may require from them obedience to just and reasonable rules, suggestions and admonitions.

2. The children are important assets of the nation. Every effort should be exerted to promote their welfare and enhance their opportunities for a useful and happy life.
3. The children shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to ensure and enable their fullest development physically, mentally, emotionally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity appropriate to the corresponding developmental stage.
4. The children shall be brought up in an atmosphere of universal understanding, tolerance, friendship, and helpfulness and in full consciousness of their responsibilities as members of society.
5. In all questions regarding the care, custody, education and property of the children, their welfare shall be the paramount consideration.
6. The children's individual traits and aptitudes should be cultivated to the utmost so they may develop multifaceted personality.
7. The formation of the children's character begins at home. Consequently, every member of the family must make the home a place that will positively influence the children's development.
8. Other institutions, like the school, the church, the guild, and the community in general, should assist the home and the state in preparing the child for the responsibilities of adulthood.

Section 3.Coverage. - This Ordinance shall cover all persons exercising parental authority and responsibility over their minor children in General Santos City, the barangays, and, to the extent herein provided, communities, institutions, departments, offices and agencies under the supervision and jurisdiction of the City Government of General Santos.

Section 4.Definition of Terms. - For purposes of this Ordinance, these terms are defined as follows:

- a) "Children" refer to those below the age of eighteen (18) years at the time of any relevant proceeding or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
- b) "Unemancipated child" refers to a person below the age of 18 receiving at least one-half of his support, which could include room and board, from a parent or guardian.
- c) "Parental Authority and Responsibility" shall include the caring for and rearing them for civic consciousness and efficiency and the development of their moral, mental and physical character and well-being.
- d) "Special parental authority and responsibility" shall be exercised by the school, its administrators and teachers, or the individual, entity or institution engaged in child care while the child is under their supervision, instruction or custody. Authority and responsibility shall apply to all authorized activities whether inside or outside the premises of the school, entity or institution.
- e) "Neglect" is a failure by the parents to adequately perform parental duties.
- f) "Best interest of the child" means the primary consideration in all actions, either by public or private bodies, of the welfare, protection, survival and normal development of the child.

- g) "Motorcycle" shall mean private motorcycles and scooters of two or three wheels and bicycles with motor attachments.
- h) "Hazing" is an initiation rite or practice as a prerequisite for admission into membership in a fraternity, sorority or organization by placing the recruits, neophytes or applicants in some embarrassing or humiliating situations such as forcing them to do menial, silly, foolish and other similar tasks or activities or otherwise subjecting them to physical or psychological suffering or injury.
- i) "Truancy" means absence without cause for more than twenty (20) school days, not necessarily consecutive. It shall be the duty of the teacher in charge to report to the parents the absences of the child the moment these exceed five (5) school days.
- j) "Newborn Screening" means the process of collecting a few drops of blood from the newborn onto an appropriate collection card and performing biochemical testing for determining if the newborn has a heritable condition.
- k) "BahayPag-asa" refers to a 24 hour child caring institution established, funded and managed by 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 above fifteen (15) but below eighteen (18) years of age who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction.
- l) "Local Council for the Protection of Children (LCPC)" refers to the group of people that monitors, prevents and responds to violence, exploitation, and abuse against children.

Section 5. Exercise of Parental Authority and Responsibility. - The father and the mother shall jointly exercise parental authority and responsibility over the persons of their common children. (Article 211, FC).

In case of absences or death of either parent, the parent present shall continue exercising parental authority and responsibility. The remarriage of the surviving parent shall not affect the parental authority and responsibility over the children, unless the court appoints another person to be the guardian of the person or property of the children (Art. 212, FC).

In case of death, absence or unsuitability of the parents, substitute parental authority and responsibility shall be exercised by the surviving grandparent. In case several survive, the one designated by the court (Art. 214, FC).

In default of parents or a judicially appointed guardian, the following person shall exercise substitute parental authority over the child in the order indicated:

1. The surviving grandparent;
2. The oldest brother or sister, over twenty-one years of age, unless unfit or disqualified; and
3. The child's actual custodian, over twenty-one years of age, unless unfit or disqualified (Art. 216, FC).

In case of foundlings, abandoned neglected or abused children and other children similarly situated, parental authority shall be entrusted in summary judicial proceedings to heads of children's homes, orphanages and similar institutions duly accredited by the proper government agency (Art. 217, FC).

Section 6.Special Parental Authority. - The school, its administrators and teachers, or the individual, entity or institution engaged in child shall have special parental authority and responsibility over the minor child while under their supervision, instruction or custody. Authority and responsibility shall apply to all authorized activities whether inside or outside the premises of the school, entity or institution (Article 218, FC).

Section 7.Non-Renunciation/Transfer of Parental Authority and Responsibility. - Parental authority and responsibility may not be renounced or transferred except in the cases authorized by law (Article 210, FC).

Section 8.Suspension or Termination of Parental Authority. - Parental authority terminates permanently:

1. Upon the death of the parents;
2. Upon the death of the child; or
3. Upon emancipation of the child (Article 228, FC).

Unless subsequently revived by a final judgment, parental authority also terminates:

1. Upon the adoption of the child;
2. Upon appointment of a general guardian;
3. Upon judicial declaration of abandonment of the child in a case filed for the purpose;
4. Upon final judgment of a competent court divesting the party concerned of parental authority; or
5. Upon judicial declaration of absence or incapacity of the person exercising parental authority (Article 229, FC).

Section 9.Duties of Parents. – The following are the responsibilities that the parents shall have toward the child:

1. To give love, affection, guidance, companionship and understanding;
2. To extend to the child the benefits of moral guidance, self-discipline and religious instruction;
3. To provide proper education in accordance with the means of the family including monitoring the child's attendance and performance in school, and attending parent-teacher conferences when required;
4. To supervise the child's activities, in and outside the home, including the recreational activities;
5. To provide the child with proper medical attention and health services as regularly provided by the City Government, including complete immunization for diseases which vaccines have been developed for administration to children up to eight (8) years old, as well as to allow newborn child to undergo newborn screening;
6. To prevent him from becoming addicted to intoxicating drinks, narcotics, smoking, gambling, and other vices or harmful practices;
7. To avoid situations which endanger the child's physical safety and situations that threatens the normal development;
8. To stimulate the child's interest in civic affairs, teach the duties of citizenship and develop commitment to community, which shall include giving all the opportunity to form or join social, cultural, educations, recreational, civic or religious organizations of movements and other useful community activities;

9. To provide the child with basic needs for survival such as food, shelter and clothing, including adequate support as defined under the Family Code; and
10. To encourage breastfeeding for newborn until two years of age.

Section 10. Rights of the Child. - All children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents and other factors:

1. Every child is endowed with dignity and worth of a human being from the moment of his conception, and therefore has the rights to be protected from this time.
2. Every child has the right to a family life that will provide him with love, care and understanding, guidance and material security. The dependent or abandoned child shall be provided with the nearest substitute for home.
3. Every child has the right to a well-rounded development of his personality to the end that he may become happy, useful and active member of the society.
 - a) The gifted child shall be given opportunity and encouragement to develop his special talents.
 - b) The emotionally disturbed or socially maladjusted child shall be treated with sympathy and understanding, and shall be entitled to treatment and competent care.
 - c) The physically or mentally handicapped child shall be given the treatment, education and care required by the particular condition.
4. Every child has the right to a balanced diet, adequate clothing, sufficient shelter, proper medical attention and all the basic requirements of a healthy and vigorous life.
5. Every child has the right to be brought up in an atmosphere of morality and rectitude for the enrichment and strengthening of character.
6. Every child has the right to an education commensurate with his/her abilities and to the development of skills for the improvement of capacity for service to self and fellowmen.
7. Every child has the right to full opportunities for safe and wholesome recreation and activities, individuals as well as social, for the wholesome use of leisure hours.
8. Every child has a right to protection against exploitation, improper influences, hazards, and other conditions or circumstances prejudicial to his/her physical, mental, emotional, social and moral development.
9. Every child has a right to live in a community and society that can offer an environment free from pernicious influences and conducive to the promotion of the health and cultivation of desirable traits and attributes.
10. Every child has the right to the care, assistance and protection of the State, particularly when parents or guardians fail or are unable to provide the fundamental needs for growth, development and improvement.
11. Every child has the right to an efficient and honest government that will deepen the faith in democracy and inspire with the morality of the constituted authorities both in their public and private lives.

12. Every child has the right to grow up as free individual, in an atmosphere of peace, understanding, tolerance and universal brotherhood, and with the determination to contribute a share in the building of a better world.
13. In no case shall those exercising parental authority, inflict corporal punishment over the child (Art 223, FC).

Section 11. Exempt From Criminal Liability. – A child fifteen (15) years old 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 pursuant to Section 20 of RA 9344.

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

A child above fifteen (15) but below eighteen (18) years old 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 an appropriate proceedings in accordance with this Ordinance.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws (RA 9344 as amended by Section 6 of Section 6 of RA 10630).

A child who is above twelve (12) up to fifteen (15) years old and who commits parricide, murder, infanticide, kidnapping and serious illegal detention where the victim is killed or raped, robbery with homicide or rape, destructive arson, rape or carnapping where the driver or occupant is killed or raped or offenses under Republic Act No. 9165 punishable by more than twelve (12) years of imprisonment, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall be mandatorily placed in a special facility within the youth care faculty or "BahayPag-asa" called the Intensive Juvenile Intervention and Support Center (IJISC) pursuant to Section 20-A of RA 10630.

A child who is above twelve (12) up to fifteen (15) years old and who commits an offense for the second time or oftener: Provided, that the child was previously subjected to a community-based intervention program, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall undergo an intensive intervention program supervised by the local social welfare and development officer pursuant to Section 20-B of RA 10630.

Section 12. Neglect of the Child. - Criminal liability shall attach to any parent having parental authority and responsibility who:

1. Abandons the child under such circumstances as to deprive the love, care and protection it needs.
2. Neglects the child by not giving the education which the family's station in life and financial condition permit.
3. Fails or refuses, without justifiable ground, to enroll the child.
4. Causes, abates or permits the truancy of the child from the school where the child is enrolled.
5. Fails to monitor the child's attendance and performance in school, and to attend, without justifiable grounds, parent-teacher conferences when required by school.

6. Improperly exploits the child by using, directly or indirectly, such as for begging and other acts which are inimical to the child's interest and welfare.
7. Inflicts cruel and unusual punishment upon the child or deliberately subjects to indignation and other excessive chastisement that embarrasses or humiliates.
8. Causes or encourages the child to lead an immoral or dissolute life.
9. Permits the child to possess, handle or carry a deadly weapon, regardless of its ownership.
10. Permits the child to possess or use intoxicating drinks, narcotic drugs, cigarettes and to engage in gambling and other vices or harmful practices.
11. Allows or requires the child to drive without a license or with a license which the parent knows have been illegally procured. If the motor vehicle driven by the child belongs to the parent, it shall be presumed that he permitted or ordered the child to drive (P.D. 603).
12. Allows the child to ride on a motorcycle (a) without the standard protective motorcycle helmet, or (b) even if the child is wearing the standard protective helmet, allows the child to ride on an overloaded motorcycle.
13. Allows the child to ride in an overloaded tricycle, whether for hire or otherwise. There is overloading when tricycle exceeds six (6) passengers.
14. Fails to present the child at health centers for free pre-natal and post natal care and Basic Immunization Services which includes (a) BCG Vaccination against tuberculosis; (b) Inoculation against diphtheria, tetanus and pertussis; (c) Oral poliomyelitis immunization; (d) Protection against measles; (e) Immunization against rubella; and (f) such other basic immunization services that the Department of Health (DOH) prescribe under Presidential Decree No. 996.
15. Allows the child to join gangs, fraternities or sororities inside or outside the school, and allows heading, joining or, in any manner, participating in hazing and other forms of initiation rites under Republic Act No. 8049.
16. Allows the child to sell, buy or smoke cigarettes or other tobacco products under Republic Act No. 9211.
17. Allows the child to participate in any gambling activity or illegal numbers game as defined under Presidential Decree No. 1602 as amended by Republic Act No. 9287.
18. Allows the child to stay out of the place of residence unaccompanied beyond safekeeping hours.

Section 13. Torts.- Parents shall be criminally liable for the injuries and damages caused by the acts or omissions of their unemancipated children living under their company and under their parental authority subject to the appropriate defenses provided by law.

Section 14. Penalties.- The Acts mentioned in paragraphs 1 to 18 of Section 12 hereof shall be punishable by a fine of P5,000.00 or one (1) year imprisonment, or both, at the discretion of the court.

Section 15. No Contest Provision.- The parents concerned who wish not to contest their liability may pay the fine for the offense with the City Treasurer before the institution of the formal charges. In case of inability to pay the fine, the parent concerned shall render community service as follows:

- a) For the first penalty a fine of P5,000.00 = eight (8) hours ;
- b) For the second penalty a fine of P5,000.00 = sixteen (16) hours; and

c) For the third penalty a fine of P5,000.00 = twenty four (24) hours.

Provided that, should parent concerned already avail of the benefits of this Section three (3) times can no longer avail of the same, and the corresponding complaint for violation of the Ordinance with the maximum penalty imposed shall be filed against the parent.

Section 16.Attendance in Parent Effectiveness Service Sessions Mandatory. – In all cases of violations under this Ordinance, the parents concerned shall always undergo Parent Effectiveness Service Sessions to be conducted in their respective barangays in addition to the penalty imposed.

Section 17.Role of the Barangay.– In cases of violations of this Ordinance, the Barangay Council for the Protection of Children (BCPC) shall immediately summon the parents concerned of the child.

Section 18.Role of City Social Welfare Development Office (CSWDO). – The well-trained social workers of the General Santos City Social Welfare Development Office shall conduct the Parent Effectiveness Service Sessions in barangays, and shall teach, train and develop proper Barangay personnel in the conduct of such activities.

Section 19.Rules and Regulations.- Unless otherwise provided in this Ordinance, the City Legal Office in coordination with the Local Council for the Protection of Children (LCPC) and City Social Welfare and Development Office (CSWDO), shall promulgate rules and regulations for the effective implementation of this Ordinance.

Such implementing rules and regulations shall take effect upon its publication in two (2) local newspapers of general circulation.

Section 20.Separability Clause.– If, for any reason or reasons, any part of provision of this Ordinance 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 21.Effectivity. - This Ordinance shall take effect fifteen (15) days after its publication at least once in a newspaper of general circulation in General Santos City.

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