



ORDINANCE NO. 13407-2018

AN ORDINANCE REGULATING THE TRAVEL OF CHILDREN ALONE OR UNACCOMPANIED BY PARENTS OR GUARDIANS TO AND FROM CAGAYAN DE ORO CITY WITHOUT PROPER DOCUMENTATION IN THE MANNER SPECIFIED HEREIN, PROVIDING PENALTY FOR VIOLATION THEREOF, AND FOR OTHER PURPOSES

Whereas, Section 12, Article II of the 1987 Constitution provides that the State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution;

Whereas, Section 1. ART. XV of the same provides that the State recognizes the Filipino Family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development;

Whereas, it shall be a policy of the Local Government Unit to recognize the equal rights and inherent human dignity of women and men as enshrined in the United Nations Universal Declaration on Human Rights, United Nations Convention on the Rights of the Child, United Nations Convention on the Protection of Migrant Workers and their Families. United Nations Convention Against Transnational Organized Crime Including its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and all other relevant and universally accepted human rights instruments and other international conventions to which the Philippines is a signatory.

Whereas, Cagayan de Oro City has been flagged as a human-trafficking hot bed being second only in the island of Mindanao and fourth in the whole country where minors are primary victims;

Whereas, it is a compelling state interest to protect minors from the evil of human trafficking and enact administrative measures to detect potential victims of human trafficking;

NOW, THEREFORE:

BE IT ENACTED by the 18th City Council (*Sangguniang Panlungsod*) of Cagayan de Oro City, as follows:

SECTION 1. – Title - This Ordinance shall be known as the “UNACCOMPANIED CHILD TRAVEL PROTECTION ORDINANCE OF 2018”.

SECTION 2. - Declaration of Policy. – In line with the Constitutional mandate that the State, recognizes the sanctity of the family life, and shall protect the family, as a basic social institution, this travel ban ordinance has been promulgated to protect the child from the evil of human trafficking and similar heinous offenses.

SECTION 3. Purposes. - This ordinance is enacted for the following purposes:

- a. To monitor the travel of children into and out of the City with a view to protect them against child trafficking;



- b. To ensure that the parent(s), legal guardian or custodian have direct knowledge of the children's whereabouts, who he/she is travelling with, and the purpose of his/her travel;
- c. To penalize person(s) responsible for the making of fraud documents or papers to comply with the requirements set forth in Sections 4, 5, 6, 7, 8, and 9 hereunder; and
- d. To ensure the investigation of parent(s), legal guardian, or custodian who consents to the travel of the child for the purpose of exploitation, which included at a minimum, the exploitation or the prostitution or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs and of other person(s) involved.

SECTION 4. - Definition of Terms. -

- a) **"Travel Restriction"** means the control and prohibition of children from travelling outside Cagayan de Oro City, not in the company of their parents and family members.
- b) **"Person"** refers to any natural person and shall include child.
- c) **"Child"** – refers to a person below eighteen (18) years of age or those over who cannot fully take care of himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

For the purpose of this Ordinance, a child shall refer to a person regardless of age who is presented, depicted or portrayed as a child defined herein.

- d) **"Parental authority (*patria potestas*)"** is defined as the "mass of rights and obligations which parents have in relation to the person and property of their children until their emancipation, and even after this under certain circumstances.
- e) **"Territorial Jurisdiction"** refers to within the boundaries of the City of Cagayan de Oro.
- f) **"Chaperone"** – any person of legal age who accompanies and looks after the minor/child during the travel, whether parent, legal guardian, custodian, or other persons such as grandparent, uncle, aunt, cousin, sibling, teacher, coach, friend, or etc.
- g) **"Child Trafficking"** – refers to the recruitment, transportation, transfer or harbor or receipts of children with or without the victim's consent or knowledge, within or across national borders for the purpose of exploitation which included at a minimum, the exploitation or the prostitution or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.
- h) **"City"** – Cagayan de Oro City
- i) **"CSWDO"** – City Social Welfare and Development Office
- j) **"Custodian"** – is any person of legal age who is acting in loco parentis ("in the place of a parent") to a child.
- k) **"Legal guardian"** - is a person appointed by the court to act as guardian over the person or property or both of the child in the absence, death or incapacity of his/her parents on petition by any relative or friend of the family.



- l) **“Parent”** – is the natural or adoptive parent of the child.
- m) **“Parental Travel Permit”** - A Parental Travel Permit is a document issued by the DSWD to a child traveling abroad accompanied only by one parent or persons exercising parental authority.
- n) **“PNP”** – Philippine National Police
- o) **“Trafficking in Persons”** – refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.
- p) **“Travel Clearance”** – A Travel Clearance is a document issued by the DSWD (Department of Social Welfare and Development) to a Filipino child (below 18 years of age) traveling abroad alone or with someone other than his/her parents, legal guardian, or custodian. A travel clearance certificate shall be valid for a period of one (1) year from the date of issuance and shall be valid for multiple travels within the validity period, provided that the conditions under which the travel clearance was issued have not changed. If a change in condition occurs, e.g., a change in traveling companion, a new travel clearance must be obtained.
- q) **“BCPC”** refers to Barangay Council for the Protection of Children

SECTION 5. *Legal Basis* - The travel restriction for unaccompanied children is based on the following:

- a) It is a natural right and duty of the parents to protect their minor children (Art. 209 of the Family Code);
- b) It cannot be renounce, transferred, or waived except in the cases authorized by law (Art. 210, of the Family Code);
- c) It is jointly exercised by the father and the mother (Art. 211 of the Family Code);
- d) It is purely personal and cannot be exercised through agents;
- e) Parental authority includes parental “responsibility.”

It is for this reason that children are restricted from travelling outside their residences without consent, authority and guidance of their parents.

SECTION 6. *Regulation*. –

- a. Children shall not be allowed to travel into and out of the City alone or unaccompanied by parent/s, guardian/s, or custodian/s, or without the parent/s, guardian/s, or custodian/s consent.,

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- b. It shall be unlawful for any person other than the parent or legal guardian/custodian to accompany a child in traveling to or from Cagayan de Oro City without complying with the requirements imposed herein.

SECTION 7. Requirement/s - To facilitate the protection of children, it is necessary that when they travel outside the territorial jurisdiction of Cagayan de Oro City unaccompanied by their parents, guardians, or custodian, the person who is with them in the said specific travel shall have the following documents, to wit:

A. For the travel of children either by land, sea or air where the legal guardian or custodian other than the parent/s is travelling with the child or with a person(s) exercising temporary or substituted parental authority/custody including the child's next of kin (who is of legal age and discernment or related within the 4th civil degree of consanguinity or affinity to the child is travelling with the child), the presentation of ANY of the following is sufficient:

- (1) Birth certificate reflecting the particulars of the parents of the child or
- (2) Proof of adoption by means of an adoption certificate, if the child is adopted; or
- (3) Court order granting custody or legal guardianship; or
- (4) Notarized letter of consent from the parent(s)/guardian of the child confirming that he or she has permission to travel with the child
- (5) or a Certification from the barangay that the person accompanying the child is authorized by the parents/guardian to travel with the child;
- (6) If traveling abroad, Parental Travel Permit issued by the DSWD aside from other travel requirements of the Bureau of Immigration.
- (7) For children ages 15 to 17, school identification or a certification issued by the barangay is sufficient.

B. For the travel of children either by land, sea or air where the child is travelling with a person(s) who is not a next of kin or related within the 4th civil degree of consanguinity or affinity to the travelling child. The presentation of ANY the following requirements are sufficient;

- (1) Birth certificate of the child;
- (2) Proof of adoption, if the child is adopted;
- (3) Notarized letter of consent from the parent(s), custodian, or legal guardian of the child confirming that he or she has permission to travel with the child, Provided that in the case where one parent provides a notarized letter of consent, that parent must also provide a copy of a court order issued to him or her in terms of which he or she has been granted full responsibilities and rights in respect of the child; or a Certification from the barangay that the person accompanying the child is authorized by the parents/guardian to travel with the child; Except in the following circumstances where notarization of the letter of consent is not mandatory;
 - a. School related activities authorized by the agency concerned with travel order or special order signed by the head of the agency;
 - b. Church related activities where church concerned is duly registered with Securities and Exchange Commission;
 - c. Accredited non-government organizations



- (4) Copies of the identity documents or passports of the parents or parent (if the other parent is dead or absent), custodian, or legal guardian;
- (5) Contact details of the parents or parent (if the other parent is dead or absent), custodian, or legal guardian of the child;
- (6) Where applicable, a death certificate of the other parent registered as a parent of the child on the birth certificate;
- (7) Travel clearance issued by the DSWD, if traveling abroad, aside from other travel requirements of the Bureau of Immigration.
- (8) For children ages 15 to 17, school identification or a certification issued by the barangay is sufficient.

C. For the travel of unaccompanied children either by land, sea or air. The presentation of ANY the following requirements are sufficient;

- (1) Notarized letter of consent from his/her parents or parent (if the other parent is dead or absent), custodian or legal guardian, as the case may be, for the child to travel into or depart from the City; *Provided*, that in the case where one parent provides a notarized letter of consent, that parent must also provide a copy of a court order issued to him or her in terms of which he or she has been granted full responsibilities and rights in respect of the child;
- (2) Basic Information and contact number of the person who is to receive the child
- (3) Contact details of the parents or parent (if the other parent is dead or absent), custodian, or legal guardian of the child;
- (4) Travel clearance issued by the DSWD, if traveling abroad, aside from other travel requirements of the Bureau of Immigration.
- (5) For children ages 15 to 17, school identification or a certification issued by the barangay is sufficient.

SECTION 8. Duties of Bus operators, airlines, shipping lines:

- a. Bus operators, airlines, shipping lines shall be required to disseminate information, establish internal mechanism for child trafficking detection, and orient their drivers, conductors, inspectors and airlines/shipping personnel regarding the provisions of this Ordinance for its effective implementation.
- b. Bus operators, airlines, shipping line personnel who has any knowledge or learn of facts or circumstances that give rise to a reasonable belief that a person will be, or suspected to be, or is in the process to being trafficked shall immediately report the incident, either orally, in writing or through other means, to barangay authorities, the local social welfare and development office, the nearest police or other law enforcement agencies, the Cagayan de Oro Council for the Protection of Children or any member of the City Inter-Agency Council Against Human Trafficking (CIACAT).

SECTION 9. Children's Desk -

- a. There shall be at least one (1) Children's Desk available in every land, air and seaport within the City with assigned Women and Children Protection Desk Officer, if not available, any trained Police Woman Officer of the PNP, and a trained social worker from City Social Welfare and Development Department (CSWDD) with the coordination of

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the BCPC who, before the child's departure from, or upon arrival to, the City, shall check and verify the completeness and validity of the requirements for the travel of the child out of, or in to, the City and, if necessary, shall conduct an interview with the child and his/her chaperone other than his parent to confirm the purpose of the travel and to determine if there is reasonable suspicion that the child is a potential victim of trafficking in persons.

SECTION 10. *Primary Assessment:*

- a. In cases where there is doubtful purpose of travel or based on reasonable genuine suspicion or risk assessment, the child is a potential victim of trafficking in persons, The CSWDO shall conduct a primary assessment with the child at the Children's Desk.
- b. The purpose of the assessment shall be to confirm the purpose of the travel and to find out whether there is child trafficking or not.
- c. The CSWDO shall formulate its Child Assessment Guide to be used in the assessment with the child.
- d. The PNP Officer shall also formulate its Assessment Guide to be used in the assessment with the child's chaperon(s).

SECTION 11. *Procedure in the Children's Desk.*

- a. Prior to departure or upon arrival, and when there is reasonable genuine suspicion that the child is a potential victim of trafficking in persons, the child and his or her chaperone shall be requested to proceed to the Children's Desk in the land, sea, or airport and present to the PNP and CSWDO assigned thereat all the documents and papers required for the travel of the child out of the City.
- b. The PNP and CSWDO shall check the completeness and validity of all the documents and papers and shall interview the child alone or the child together with his/her chaperone other than his/her parent/s to confirm the purpose of the travel and to find out whether there is child trafficking or not.
- c. If, upon investigation, it is found that there is child trafficking, the child shall be sent home or temporarily if he/she cannot be sent home, he/she shall be under the custody of the CSWDO and the person(s) responsible shall be further investigated by law enforcers.
- d. The PNP, together with the CSWDO shall provide the detailed procedure in the Children's desk through the Implementing Rules and Regulations.

SECTION 12. *Filing of Cases* – A Social Worker of the CSWDO, is commissioned to file a complaint before the City Prosecutor's Office.

SECTION 13. *Penalties and Sanctions.* – (a) Any person found violating the provisions of this Ordinance shall suffer the penalty of a fine of not less than ₱3,000.00 but not more than ₱5,000.00, or both. This is without prejudice to the possible filing of other offenses under existing national laws.



(b) The operators of buses, airlines, shipping lines and other similar conveyance, whether public or private, who fail to implement the requirements in Section 8 of this Ordinance shall be given a notice of violation. If they fail to meet the requirements after two notices of violation, their business licenses shall be revoked.

(c) When an offense punishable under RA 10364, as amended, or any other offense in relation thereto or in furtherance thereof has been committed, or is actually being committed in the presence of a law enforcement officer, CSWD Social Worker or any private person by virtue of citizen's arrest in Rules of Court, shall immediately cause the interception and/or arrest of the persons involved;

(d) A law enforcement officer, on a reasonable suspicion that a person is a victim of any offense defined by RA 10364 as amended, including attempted trafficking, shall immediately place that person in the temporary custody of the CSWDD or any accredited or licensed shelter institution devoted to protecting trafficked persons after the rescue as provided in Section 17-A of RA 9208.

SECTION 14. Appropriations. – There shall be allocated in the annual budget of the City Social Welfare and Development Office (CSWDO) so much amount necessary for the implementation of the provisions of the Ordinance.

The Program of Works thereof shall be prepared by the City Inter Agency Against Trafficking.

SECTION 15. Implementing Rules and Regulations – The CSWDD through the appropriate committee shall formulate the necessary Implementing Rules and Regulations within sixty (60) days from the effectivity of this Ordinance.

SECTION 16. Separability Clause. – If any provision of this Ordinance is declared unconstitutional or invalid, the other provisions not affected thereby shall continue to be in full and effect.

SECTION 17. Repealing Clause. - All local executive orders, administrative orders, rules and regulations and ordinances inconsistent with or contrary to the provisions of this Ordinance are deemed amended, modified or repealed accordingly.

SECTION 18. Effectivity. – This Ordinance shall take effect after fifteen (15) days following its complete publication in the Official Gazette or in a local newspaper of general circulation.

UNANIMOUSLY APPROVED.

AUTHOR: COUNCILOR EDNA M. DAHINO

<u>Present:</u>	<i>1st District:</i>	- Councilor Edna M. Dahino	- Councilor Romeo V. Calizo
		- Councilor Annie Y. Daba	- Councilor Reuben R. Daba
		- Councilor George S. Goking	- Councilor Jay R. Pascual
	<i>2nd District:</i>	- Councilor Ian Mark Q. Nacaya	- Councilor Maria Lourdes S. Gaane
		- Councilor Suzette G. Magtajas-Daba	- Councilor Leon D. Gan, Jr.

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Out of Session Hall:

On Leave:

On Official Business:

Absent:

- Councilor Teodulfo E. Lao, Jr.
- Councilor Dometilo C. Acenas, Jr.
- Councilor Nadya B. Emano-Elife
- Councilor Enrico D. Salcedo
- Councilor Zaldy O. Ocon
- Councilor Lordan G. Suan
- Councilor Yan Lam S. Lim

ENACTED this 19th day of March 2018 in the City of Cagayan de Oro.

I hereby certify to the correctness of the foregoing Ordinance.

Attested as duly enacted:

RAINEIR JOAQUIN V. UY
CITY VICE-MAYOR
PRESIDING OFFICER

ARTURO S. DE SAN MIGUEL
CITY COUNCIL SECRETARY

Approved:

OSCAR S. MORENO
CITY MAYOR

Attested:

TEODORO A. SABUGA-A, JR.
ACTING CITY ADMINISTRATOR

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