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Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO TRANSITION AUTHORITY 2
Cotabato City

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Introduced by:

MP ENGR. BAIN TAN ADIL-AMPATUAN, MNSA

Co-authors:

MP Amilbahar S. Mawallil, MPSA; MP Atty. Laisa M. Alamia, MNSA; MP Atty. Suharto M. Ambolodto, MNSA; MP Don Mustapha A. Loong, MPSA; MP Atty. Rasol Y. Mitmug, Jr., CESE; MP Rasul E. Ismael; MP Diamila D. Ramos; MP Susana S. Anayatin; MP Khalid Ma-Amor Hadji Abdullah; MP Jaafar Apollo Mikhail L. Matalam; MP Sittie Fahanie S. Uy-Oyod; MP Nabila Margarita P. Pangandaman; MP Bassir D. Utto; MP Froilyn T. Mendoza; Mohammad Kelie U. Antao

AN ACT

PROMOTING THE SAFETY AND WELFARE OF THE BANGSAMORO MINORS, PROVIDING FOR THE GENERAL GUIDELINES IN THE IMPLEMENTATION OF A CURFEW FOR MINORS IN THE BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO (BARMM)¹

Explanatory Note

"We cannot always build the future for our youth, but we can build our youth for the future." – Franklin D. Roosevelt

"The youth is the hope of our future." – Jose P. Rizal

The State's premium on the youth

The protection of the youth is essential for the preservation and existence of our country. No less than the 1987 Philippine Constitution, under its declaration of state policies, recognizes the vital role of the youth in nation-building. It places a premium on the promotion and protection of the youth's physical, moral, spiritual, intellectual, and social well-being.²

¹ This bill was inspired by the entry of *Ms. Firdaus S. Abdullah* in the Office of MP Ampatuan's Online Bill and Resolution Drafting Contest with the same title.

² *Article II, Section 13, 1987 Constitution*

The same protection is reiterated in our R.A. 11054 or the Bangsamoro Organic Law (BOL).³ The rights of children include the **respect, protection, and promotion of their rights as children**, especially orphans of tender age. They shall be **protected from exploitation, abuse or discrimination...** Bangsamoro policies and programs shall also take into utmost consideration the **best interest of children**, and promote and protect the rights of children, youth, and adolescents, including their survival and development.⁴

On violence against children

According to the United Nations' Children's Fund (UNICEF) National Baseline Study on Violence against Children, it is an unfortunate fact that children are exposed to various forms of violence, including physical, emotional and sexual exploitation and abuse, as well as neglect, all while being the most vulnerable sector when it comes to dealing with said violence.⁵

In the Philippines, as a result of violence, thousands of children are robbed of their childhood, resulting in lifelong developmental challenges. The effects include both mental and physical health disorders, such as anxiety, depression, and cardiovascular diseases, as well as health-risk behaviors, such as smoking, alcoholism, drug abuse, and engagement in high risk sexual activity.⁶

Clearly, the physical and emotional harm to children resulting from the experience of and exposure to violence is devastating. The impacts are lasting emotional and psychological effects, as well as what could possibly be a lifetime of physical pain and emotional suffering. As a result of these horrid experiences, juvenile victims may become perpetrators of violence too.⁷

When child victims are at an increased risk of becoming children in conflict with the law, there are increased costs to the criminal justice system. To add, society loses when children exposed to violence are less able, if not able, to contribute and become productive members of their community.⁸

On crimes that happen during the night time

"Criminals find their best opportunities in the dark." This was the conclusion of a study that examined more than 840,000 police incidents from across 10 major cities in the United States, titled *"Crimes at Night: Analyzing Incident Reports in Major Cities"*. In

³ Article IX, Section 13, R.A. 11054 or the BOL

⁴ Article IX, Section 14, R.A. 11054 or the BOL

⁵ United Nations Children's Fund (UNICEF). (October 2016). *National baseline study on violence against children: Philippines, executive summary*. Retrieved from [https://www.unicef.org/philippines/media/491/file/National%20Baseline%20Study%20on%20Violence%20Against%20Children%20in%20the%20Philippines:%20Results%20\(executive%20summary\).pdf](https://www.unicef.org/philippines/media/491/file/National%20Baseline%20Study%20on%20Violence%20Against%20Children%20in%20the%20Philippines:%20Results%20(executive%20summary).pdf)

⁶ *Id.*, page II, paragraph 3.

⁷ *Id.*, page II, paragraph 2.

⁸ *Id.*, page II, paragraph 3.

the study, although it was found that half of police incidents occurred during the day, the more violent crimes of murder, rape or sexual assault, and robbery were more frequently report during the night time.⁹

On crimes that happen during the night time that involve children

Violence against minors can occur in different circumstances, such as juvenile-related crime, victimization, and delinquency. For instance, during a night patrol in a village in Metro Manila, a village council chairman and his team busted a sex den where minors were loitering. The sex den's operators were minors aged 10 to 13 years old, who carried knives and sharp tools as weapons. Apart from this, gang riots, looting, and robberies were frequent.¹⁰

On a general curfew as a means to protect minors

In a stringent effort to curb or deter juvenile violence, crime, victimization, and delinquency, curfews have reemerged as an option for policymakers. According to the Office of Juvenile Justice and Delinquency Prevention of the United States Government, citing the Ruefle and Reynolds analysis in their research article titled "*Curfews and Delinquency in Major American Cities*", those who support curfews for minors indicate that neighborhoods afflicted with high rates of crime may use curfews as a "means to protect nondelinquent youth from crime and to deny delinquent youth the opportunity to engage in criminal behavior."¹¹

Moreover, according to the Federal Bureau of Investigation's (FBI's) 1994 Uniform Crime Report (UCR), by keeping youth under the age of 18 off the street, curfews are expected to reduce the incidence of crime and the rates of youth victimization, mainly because juvenile perpetrators of crime often take other youth as their victims.¹²

In the interest of public order and safety, it is imperative to regulate the movement of minor children, especially during night time, in order to protect them from violence, exploitation, abuse, cruelty, neglect, and other harmful conditions prejudicial and detrimental to their well-being and development.¹³

⁹ The Sleep Judge. (December 22, 2021). *Crimes at night: Analyzing police incident reports in major cities*. Retrieved from <https://www.thesleepjudge.com/crimes-that-happen-while-you-sleep/>

¹⁰ Ng, D. (2019). *The Philippines' little delinquents, committing some of the most brazen crimes*. Channel News Asia. Retrieved from <https://www.channelnewsasia.com/cnainsider/philippines-problem-children-committing-brazen-juvenile-crimes-881021>

¹¹ Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. (April 4, 1996). *Juvenile justice reform in the States 1994-1996*. Juvenile Justice Bulletin, Curfew: An Answer to Juvenile Delinquency and Victimization. Retrieved from https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/reform2/ch2_c.html#note56

¹² *Id*, citing 1994 UCR, *supra* note 3, at 221.

¹³ Lungsod ng Caloocan. (2017). *Ordinance No. 0702 s. 2017: An ordinance mandating the strict implementation of new curfew hours for children from 10:00 a'clock in the evening to 5:00 o'clock in the morning of the following day, prescribing the proper procedure for their apprehension and custody, pursuant to Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006, as amended, and for other purposes*. Retrieved from <https://caloocancity.gov.ph/images/pdfs/ordinance/ORDINANCE-NO.-0702-Curfew-Ordinance.pdf>

Even the national government of the Philippines, through its legislative body, is considering the imposition of a national curfew to lessen the exposure of children to crime and violence.¹⁴ In 2017, the House of Representatives, in an unnumbered bill with the title "*Safe Hours for Children Act*," aims to ensure the "safety and self-esteem" of children, prevent criminals from using them in illegal activities, and protect them from abuse and exploitation, by setting a nationwide curfew for minors. However, the bill is still subject to debates and amendments at the House plenary.¹⁵

Moreover, given the vulnerability of minors, and given the issue of the Philippine Government wanting to lower the age of responsibility¹⁶, perhaps it would be better, as an act of prevention, to limit the exposure of minors to crimes and syndicates, by imposing a general curfew.

Legal bases of curfews for minors

It is the declared policy of the state that it recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. 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.¹⁷

It is also stated in the Constitution that 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.¹⁸

Moreover, in the case of *Samahan ng mga Progresibong Kabataan (SPARK) v. City of Quezon, City of Manila, and City of Navotas*¹⁹, the Supreme Court ruled that the State, as *parens patriae*, has the inherent right and duty to aid parents in the moral development of their children, and, thus, assumes a supporting role for parents to fulfill their parental obligations.

The Supreme Court also ruled in the said case that curfew ordinances "are but examples of legal restrictions designed to aid parents in their role of promoting their children's well-being... Minors, because of their peculiar vulnerability and lack of experience, are not only more exposed to potential physical harm by criminal

¹⁴ House of Representatives Press and Public Affairs Bureau. (September 26, 2017). *Curfew on children soon*. Retrieved from <https://www.congress.gov.ph/press/details.php?pressid=10277>

¹⁵ Nonato, F. (September 26, 2017). *Proposed curfew on children hurdles House committee level*. Philippine Daily Inquirer. Retrieved from <https://newsinfo.inquirer.net/933560/proposed-curfew-on-children-hurdles-house-committee-level-minor-curfew-safe-hours-for-children-act>

¹⁶ Manila Bulletin (October 16, 2021). *House bills lowering criminal responsibility to 12 years old backed, opposed*. Retrieved from <https://mb.com.ph/2021/10/16/house-bills-lowering-criminal-responsibility-to-12-years-old-backed-opposed/>

¹⁷ Article II, Section 12, 1987 Constitution

¹⁸ Article XV, Section 3(2), 1987 Constitution

¹⁹ G.R. No. 225442, August 8, 2017

elements that operate during the night; their moral well-being is likewise imperiled as minor children are prone to making detrimental decisions during this time."

It also ruled that "curfew ordinances positively influence children to spend more time at home. Consequently, this situation provides parents with better opportunities to take a more active role in their children's upbringing."

It cited *Schleifer v. City of Charlottesville*²⁰ where the US court observed that:

"A curfew aids the efforts of parents who desire to protect their children from the perils of the street but are unable to control the nocturnal behavior of those children." Curfews may also aid the "efforts of parents who prefer their children to spend time on their studies than on the streets."

The Supreme Court went on to say that "the stated purposes of the curfew ordinances, specifically the promotion of juvenile safety and prevention of juvenile crime, inarguably serve the interest of public safety. The restriction on the minor's movement and activities within the confines of their residences and their immediate vicinity during the curfew period is perceived to reduce the probability of the minor becoming victims of or getting involved in crimes and criminal activities."

As stated by the Court, our legal system is replete with laws emphasizing the State's duty to afford special protection to children, i.e., R.A. 7610²¹ or , as amended, R.A. 9775²², R.A. 9262²³, R.A. 9851²⁴, R.A. 9344²⁵, R.A. 10364²⁶, R.A. 9211²⁷, R.A. 8980²⁸, R.A. 9288²⁹, and P.D. 603³⁰ as amended.

Particularly relevant is Article 139 of P.D. 603, which explicitly authorizes local government units, through their city or municipal councils, to set curfew hours for children. It reads:

Article 139. Curfew Hours for Children. - City or municipal councils may prescribe such curfew hours for children as may be warranted by local

²⁰ 159 F.3d 843 (1998) U.S. App. LEXIS 26597

²¹ Section 2 of R.A. 7610, otherwise known as "SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT" (July 27, 1992).

²² Section 2 of R.A. 9775, otherwise known as the "ANTI-CHILD PORNOGRAPHY ACT OF 2009," approved on November 17, 2009.

²³ See Sections 2 and 4 of R.A. 9262, otherwise known as the "ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004" (March 27, 2004).

²⁴ Section 2 of R.A. 9851, otherwise known as the "PHILIPPINE ACT ON CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW, GENOCIDE, AND OTHER CRIMES AGAINST HUMANITY," approved on December 11, 2009.

²⁵ Section 2 of R.A. 9344

²⁶ Sections 3 (a) and (b) of RA 10364, otherwise known as the "EXPANDED ANTI-TRAFFICKING IN PERSONS ACT OF 2012," approved on February 6, 2013.

²⁷ Section 32 (b) of RA 9211, otherwise known as "TOBACCO REGULATION ACT OF 2003"(September 2, 2003).

²⁸ Sections 2 and 3 of R.A. 8980, otherwise known as "ECCD ACT" (May 22, 2001).

²⁹ Sections 2 and 3 of R.A. 9288, otherwise known as the "NEWBORN SCREENING ACT OF 2004" (May 10, 2004).

³⁰ Articles 1, 3, and 8 of PD 603, otherwise known as the "THE CHILD AND YOUTH WELFARE CODE," approved on December 10, 1974.

conditions. The duty to enforce curfew ordinances shall devolve upon the parents or guardians and the local authorities.

Any parent or guardian found grossly negligent in the performance of the duty imposed by this article shall be admonished by the Department of Social Welfare or the Council for the Protection of Children.

Conclusion

The 1987 Philippine Constitution, the Convention on the Rights of the Child (CRC), ratified by the Philippines, and several domestic laws recognize the special status of minors. It is because of the minor's vulnerability and their ability to mature and develop that justify their special protection under the law.³¹ Thus, in order to deter and prevent minors from being involved in or exposed to violence, crime, victimization, and delinquency, the passage of this legislative measure is earnestly sought.

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


ENGR. BAIN TAN ADIL AMPATUAN, MNSA

³¹ Domino, J. (2019). *How the Philippines is failing its children*. Business World. Retrieved from <https://www.bworldonline.com/editors-picks/2019/01/29/211544/how-the-philippines-is-failing-its-children/>

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AN ACT

PROMOTING THE SAFETY AND WELFARE OF THE BANGSAMORO MINORS, PROVIDING THE GENERAL GUIDELINES IN THE IMPLEMENTATION OF CURFEW FOR MINORS IN THE BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO (BARMM)³²

Be it enacted by the Parliament of the Bangsamoro Autonomous Region in Muslim Mindanao assembled:

Section 1. Title. – This Act shall be known as the “*BARMM General Curfew for Minors Act*”.

Section 2. Declaration of State Policy. – It is the declared policy of the State:

- a. to recognize the vital role of the youth in nation-building and to 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;³³

³² This bill was inspired by the entry of Ms. *Firdaus S. Abdullah* in the Office of MP Ampatuan’s Online Bill and Resolution Drafting Contest with the same title.

³³ Article II, Section 13, 1987 Constitution

- b. to respect, protect, and promote the rights of children, especially orphans of tender age. They shall be protected from exploitation, abuse or discrimination. Bangsamoro policies and programs shall also take into utmost consideration the best interest of children, and promote and protect the rights of children, youth, and adolescents, including their survival and development;³⁴
- c. 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 conditions prejudicial to their development.³⁵

Section 3. Definition of terms. – The terms used in this Act shall mean the following:

- a. **Minor**³⁶ refers to a person under the age of eighteen (18) years.
- b. **Parent*** refers to both biological and adoptive parents who have actual custody of the minor.
- c. **Guardian*** refers to:
 1. a person, under court order, who is appointed as the guardian of the person of the minor;
 2. a public or private agency, under court order, with whom a minor has been placed under custody of;
 3. a person charged with actual custody of the minor and is taking care of the minor, absent the parents, whether a relative or not; or
 4. a person, at least 18 years of age, and authorized by a parent or guardian to accompany the minor in a public place.
- d. **Public place** is any place located within the territorial jurisdiction of the BARMM, which is accessible or open to the general public, or a substantial amount of people, or places for collective use, including, but not limited to, streets, highways, sidewalks, parks, plazas, parking lots, vacant lots, malls, stores, and other common areas in churches or places of congregational prayer, schools, shops, and places of entertainment such as theaters, cinemas, and arcades, and other similar places or establishments.
- e. **Residence** means the house or home where the minor and his/her parent(s) or guardian(s) actually live.
- f. **Emergency*** means any unforeseen or fortuitous circumstance(s) that call for immediate action, including, but not limited to, natural calamities like earthquakes, floods, and the like, as well as man-induced dangers or calamities such as fires, or any situation requiring an immediate response to prevent serious bodily injuries or loss of life.

³⁴ Article IX, Section 14, R.A. 11054 or the BOL

³⁵ Article XV, Section 3(2), 1987 Constitution

³⁶ Lifted from R.A. 9344 or the *Juvenile Justice and Welfare Act of 2006*, as amended by R.A. 10630;

- g. **Law Enforcement Officer**³⁷ refers to the person in authority or his or her agent, as defined in Article 152 of the Revised Penal Code of the Philippines, including a *barangay tanod*.
- h. **Best Interest of the Child**³⁸ 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.
- i. **Child**³⁹ refers to a person under the age of eighteen (18) years.
- j. **Child at Risk**⁴⁰ 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.
- k. **Child in Conflict with the Law**⁴¹ refers to a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws.
- l. **Court**⁴² refers to a family court or, in places where there are no family courts, any regional trial court.
- m. **Habitual Violator**^{*} refers to a minor who has repeatedly violated the Act more than three (3) times.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

Section 4. Curfew. – There shall be imposed a 10:00 pm to 4:00 am for all minors in the BARMM.

Section 5. Prohibited Activities. – The following are prohibited under this Act:

- (a) A minor is prohibited from roaming around, loitering, wandering, staying, meandering, or remaining in all public places during the mandated curfew hours, whether alone or in groups, without lawful purpose or justifiable reason;
- (b) A parent or guardian is prohibited from knowingly permitting, or by insufficient control, allowing the minor to loiter, wander, stay, meander, or remain in any public place within the territorial jurisdiction of the BARMM.

Section 6. Exceptions.⁴³ – Minor children under the following circumstances shall not be covered by the provisions of this Act:

- a. Those accompanied or authorized in writing to run lawful errands or engage in legitimate activities during the night by their parents or guardian;
- b. Those on their way to or from a lawful activity, graduation ceremony, religious activity, and/or other extra-curricular activities of sanctioned by their school or legitimate civic organization, in writing, wherein their attendance are required or otherwise indispensable, or when such minors are out and unable to go home early due to circumstances beyond their control, as verified by the proper authorities concerned; and
- c. Those attending to, or in experience of, an emergency situation such as conflagration, earthquake, hospitalization, road accident, law enforcers encounter, and similar incidents;
- d. When the minor is engaged in an authorized employment activity, or going to or returning home from the same place of employment activity without any detour or stop;
- e. When the minor is in a motor vehicle or other travel accompanied by an adult in no violation of this Ordinance;
- f. When the minor is involved in an emergency;
- g. When the minor is out of his/her residence attending an official school, religious, recreational, educational, social, community or other similar private activity sponsored by the city, barangay, school, or other similar private civic/religious organization/group (recognized by the community) that

⁴³ Lifted from Quezon City Ordinance No. SP- 2301, Series of 2014 or “An ordinance setting for a [sic] disciplinary hours in Quezon City for minors from 10:00 PM to 5:00 AM, providing penalties for parent[s]/guardians[s], for violation thereof and for other purposes,” which the Supreme Court upheld in G.R. 225442 and ruled that it sufficiently safeguards the minors’ constitutional rights.

supervises the activity or when the minor is going to or returning home from such activity, without any detour or stop; and

- h. When the minor can present papers certifying that he/she is a student and was dismissed from his/her class/es in the evening or that he/she is a working student.

Section. Determination of Age. – The age of the 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.

Section 7. Implementing Rules and Regulations. – Each local government unit (LGU) is directed to formulate implementing rules and regulations as may be warranted by local conditions.

Section 8. Barangay Council for the Protection of Children (BCPC). – The BCPC is tasked to take custody of the child for violating this Act and to conduct intervention programs, such as counseling, and secure the attendance in group activities for children, and for the parents, attendance in parenting education seminars.

Section 8. Enforcement Procedure. – In compliance with R.A. 9344 or the Juvenile Justice Welfare Act of 2006, the law enforcement officer, enforcing action under this ordinance, shall observe *Section 21 of R.A. 9344* in dealing with a minor or minors believed to be in violation of this Act. The said provision states:

Section 21. Procedure for Taking the Child into Custody. – *From the moment a child is taken into custody, the law enforcement officer shall:*

- (a) *Explain to the child in simple language and in a dialect that he/she can understand why he/she is being placed under custody and the offense that he/she allegedly committed;*
- (b) *Inform the child of the reason for such custody and advise the child of his/her constitutional rights in a language or dialect understood by him/her;*
- (c) *Properly identify himself/herself and present proper identification to the child;*
- (d) *Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child in conflict with the law;*
- (e) *Avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted and have failed;*

- (f) *Refrain from subjecting the child in conflict with the law to greater restraint than is necessary for his/her apprehension;*
- (g) *Avoid violence or unnecessary force;*
- (h) *Determine the age of the child pursuant to Section 7 of this Act;*
- (i) *Immediately but not later than eight (8) hours after apprehension, turn over custody of the child to a member of the BCPC and notify the child's apprehension. Any member of the BCPC shall explain to the child and the child's parents/guardians the consequences of the child's act and without delay, conduct counseling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate;*
- (j) *Take the child immediately to the proper medical and health officer for a thorough physical and mental examination. The examination results shall be kept confidential unless otherwise ordered by the Family Court. Whenever the medical treatment is required, steps shall be immediately undertaken to provide the same;*
- (k) *Ensure that should detention of the child in conflict with the law be necessary, the child shall be secured in quarters separate from that of the opposite sex and adult offenders;*
- (l) *Record the following in the initial investigation:*
 - 1. *Whether handcuffs or other instruments of restraint were used, and if so, the reason for such;*
 - 2. *That the parents or guardian of a child, the DSWD, and the PAO have been informed of the apprehension and the details thereof; and*
 - 3. *The exhaustion of measures to determine the age of a child and the precise details of the physical and medical examination or the failure to submit a child to such examination; and*
- (m) *Ensure that all statements signed by the child during investigation shall be witnessed by the child's parents or guardian, social worker, or legal counsel in attendance who shall affix his/her signature to the said statement.*

A child in conflict with the law shall only be searched by a law enforcement officer of the same gender and shall not be locked up in a detention cell.

Section 9. Obligations and Responsibility of Parents or Guardians. – The parent(s) or guardian(s) are mandated to supervise the conduct and activities of their minor children and to see to it that the latter are already in their home prior to and until after the occurrence of the curfew.

Section 10. Responsibility of the Community. – Any person who has personal knowledge of the presence of any minor in any public place during the curfew hours must immediately call the attention of any law enforcement officer.

Section 11. Barangay Curfew for Minors Logbook. – Each BCPC shall keep a logbook, digitized or manual, or both, depending on the situation of the Barangay, the purpose of which is for the recording of the names of the children who violated the said curfew. Recording of the names of the children shall, in no way, mean that they have committed a criminal offense or have incurred a criminal record.

The logbook will only be for the determination of the number of offenses of the child, and shall be secured and protected at all times. For this purpose, all BCPCs shall implement reasonable and appropriate organizational physical and technical measures intended for the protection of personal information against any accidental or unlawful access, fraudulent misuse, and disclosure, as well as against any other unlawful processing.

Section 12. Manner of Dealing with the Violator. – As provided under Section 57-A of R.A. 9344, ordinances enacted by local governments concerning juvenile status offenses such as but not limited to, curfew violations, shall be for the protection of children. Thus, no penalty shall be imposed on the child for said violations. However, the child's parent(s) or guardian(s) may be meted with a fine or penalized, or both. However, the child and his or her parent(s) or guardian(s) shall be subject to the following consequences:

- (a) **FIRST OFFENSE.** – The child found to be in violation of this act, for the first time, shall be brought to their residence or to any barangay official at the barangay. The name of the child shall be recorded in the logbook of the Barangay for the first offense.

The BCPC shall conduct a counseling for the child with his or her parent(s) or guardian(s) before releasing the child to the latter's custody. The counseling shall take place either at home or the nearest barangay, whichever is applicable in the context of the situation.

The child, along with his or her parent(s) or guardians(s) will be admonished⁴⁴ of the consequences that they will be dealing with in case of a subsequent and second violation of the minor.

- (b) **SECOND OFFENSE.** – The child found to be in violation of this act, for the second time, shall be brought to any barangay official at the barangay. The

⁴⁴ In G.R. No. 225442, the Supreme Court held that **admonition** is consistent with Sections 57 and 57-A of RA 9344 as it is merely a formal way of giving warnings and expressing disapproval to the minor's misdemeanor. Admonition is generally defined as a "gentle or friendly reproof" or "counsel or warning against fault or oversight." Notably, the Revised Rules on Administrative Cases in the Civil Service (RRACCS) and our jurisprudence in administrative cases explicitly declare that "a warning or admonition shall not be considered a penalty."

name of the child shall be recorded in the logbook of the Barangay for the second offense.

The child and his or her parent(s) or guardian(s) shall be required to attend THREE (3) consecutive regular sessions of the BCPC for counseling. The BCPC shall certify the compliance or non-compliance of the concerned minor and his or her parent(s) or guardian(s). The parent(s) or guardian(s) shall see to it that the certification be presented to the Barangay or the apprehending officer in a period of no more than one (1) month.

Moreover, the child and his or her parent(s) or guardian(s) shall be required to render 48 hours of community service⁴⁵. The parent (s) or the guardian(s) will be required to settle a fine of Two Thousand Pesos (Php 2,000.00).

The child, along with his or her parent(s) or guardians(s), will also be admonished of the consequences that they will be dealing with in case of a third and subsequent violation of the minor.

- (c) **THIRD OFFENSE.** – The child found to be in violation of this act, for the third time, shall be brought to any barangay official at the barangay. The name of the child shall be recorded in the logbook of the Barangay for the third offense.

The child shall also be recorded as a "child at risk" and NOT as a "child in conflict with the law."

The child and his or her parent(s) or guardian(s) shall be required to attend FIVE (5) consecutive regular sessions of the BCPC for counseling. The BCPC shall certify the compliance or non-compliance of the concerned minor and his or her parent(s) or guardian(s). The parent(s) or guardian(s) shall see to it that the certification be presented to the Barangay or the apprehending officer in a period of no more than two months.

Moreover, the child and his or her parent(s) or guardian(s) shall be required to render 120 hours of community service⁴⁶. Moreover, the parent(s) or the guardian(s) will be required to settle a fine of five thousand pesos (Php 5,000.00).

⁴⁵ In G.R. No. 225442, the Supreme Court held that "requiring the minor to perform community service is a valid form of intervention program that a local government could appropriately adopt in an ordinance to promote the welfare of minors. For one, the community service programs provide minors an alternative mode of rehabilitation as they promote accountability for their delinquent acts without the moral and social stigma caused by jail detention."

⁴⁶ In G.R. No. 225442, the Supreme Court held that "requiring the minor to perform community service is a valid form of intervention program that a local government could appropriately adopt in an ordinance to promote the welfare of minors. For one, the community service programs provide minors an alternative mode of rehabilitation as they promote accountability for their delinquent acts without the moral and social stigma caused by jail detention."

The child, along with his or her parent(s) or guardians(s), will also be admonished of the consequences that they will be dealing with in case a fourth and subsequent violation of the minor.

(d) **FOURTH AND EVERY SUCCEEDING OFFENSE.** – The child found to be in violation of this act, for the third time, shall be brought to any barangay official at the barangay. The name of the child shall be recorded in the logbook of the Barangay for every succeeding offense.

The child will be labeled, not only as a child at risk, but also as a **habitual violator** of the said Act, and will be turned over to the Department of Social Welfare and Development for counseling or for any intervention program as may be deemed appropriate by the Department.

The child's parent(s) or guardian(s) shall be penalized with imprisonment of not less than one month, as may be deemed necessary by the Court.

Section 12. Repealing Clause. – Any provision of law, decree, executive orders, ordinances, rules and regulations inconsistent with this Act are hereby repealed, amended, or modified accordingly.

Section 13. Separability Clause. – If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions thereof shall not be affected by such declaration.

Section 14. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation in the Bangsamoro Autonomous Region in Muslim Mindanao.

Adopted,


MP ENGR. BAJANTAN ADIL-AMPATUAN, MNSA
Author