

CONVERTING BRANCH VIII OF THE COURT OF FIRST INSTANCE OF CEBU AND BRANCH VIII OF THE COURT OF FIRST INSTANCE OF NEGROS OCCIDENTAL INTO JUVENILE AND DOMESTIC RELATIONS COURTS

PRESIDENTIAL DECREE NO. 411-A, March 15, 1974

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WHEREAS, the Province of Cebu, excluding the cities of Cebu, Lapu-Lapu, Danao, Toledo and Mandaue, and the Province of Negros Occidental, excluding the cities of Bacolod, Silay, San Carlos, La Carlota, Bago and Cadiz, have a population of 1,758,212 and 1,821,000, respectively, giving rise to numerous juvenile cases and domestic problems;

WHEREAS, a Juvenile and Domestic Relations Court is needed in the Provinces of Cebu and Negros Occidental to exclusively handle and resolve juvenile cases and domestic problems; and

WHEREAS, Branch VIII of the Court of First Instance of Cebu and Branch VIII of the Court of First Instance of Negros Occidental have presently no presiding judges and their conversion into Juvenile and Domestic Relations Courts will not adversely affect the administration of justice;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby order and decree:

SECTION 1. The Juvenile and Domestic Relations Courts. — Branch VIII of the Court of First Instance of Cebu and Branch VIII of the Court of First Instance of Negros Occidental are hereby converted into Juvenile and Domestic Relations Courts of the Province of Cebu and the Province of Negros Occidental, respectively, for which judges who shall possess the same qualifications, enjoy the same privileges and receive the same salary as judges of the Court of First Instance, shall be appointed by the President.

The Juvenile and Domestic Relations Court of the Province of Cebu shall have exclusive original jurisdiction to hear and decide cases in the Province of Cebu including the cities of Cebu, Lapu-Lapu, Toledo, Danao and Mandaue, and the Juvenile and Domestic Relations Court of the Province of Negros Occidental shall have also exclusive original jurisdiction to hear and decide cases in the Province of Negros Occidental including the cities of Bacolod, Silay, San Carlos, La Carlota, Bago and Cadiz, which are of the following nature:

- Criminal cases cognizable by the courts of first instance, circuit criminal courts, municipal courts and city courts wherein the accused is under sixteen (16) years of age at the time of the trial: Provided, That city and municipal courts shall exercise concurrent jurisdiction over:
- Air violations of municipal or city ordinances committed within their respective territorial jurisdictions;
- Malicious mischief, concealment of deadly weapons and all criminal cases arising under the laws relating to gambling.

- Cases involving custody, guardianship, adoption, paternity and acknowledgment: Provided, That city and municipal courts shall continue to exercise the jurisdiction to appoint guardians conferred upon them by Section 86(c) of the Judiciary Act;
- Annulment of marriages, legal separation of spouses and action for support;
- Proceedings brought under the provisions of Articles one hundred sixteen, two hundred twenty-five, two hundred fifty-two and three hundred thirty-two of the Civil Code;
- Petitions for the declaration of absence and for the change of name;
- Actions for the separation of property of spouses; and
- Proceedings affecting a dependent or neglected child, as hereinafter defined.

The Juvenile and Domestic Relations Courts shall likewise have such incidental powers as are generally possessed by courts of first instance.

If any question involving any of the above matters should arise as an incident in any case pending in the ordinary courts, said incident shall be determined in the main case.

In case of the temporary absences, disqualification, or inhibition of the judges, the Supreme Court may designate a Judge of the Court of First Instance to act in the court or on a particular case in accordance with the procedures provided for under this Decree. Such designation may also be made under the conditions provided in the first paragraph of Section fifty-one of the Judiciary Act.

For the more economical and expeditious disposition of cases pending before it, the court shall have the authority to designate any judge of an inferior court within its jurisdiction to act as a commissioner for the purpose of receiving evidence in the city or municipality wherein he is stationed. Such commissioner shall proceed to receive evidence without delay and shall submit to the court a full report of the proceedings under him within twenty (20) days after the termination of said proceedings. The court shall have the discretion either to render a decision on the basis of the commissioner's report thus submitted, or require the commissioner to receive further evidence, or conduct further hearing itself.

SEC. 2. "Dependent" or "Neglected" Child Defined. — The term "dependent" child or "neglected" child shall mean any child under sixteen (16) years of age who is dependent upon the public for support or who is destitute, homeless or abandoned; or who habitually begs or receives alms, or who is found living in any house of ill-fame or with any vicious or disreputable person, or whose home, by reason of neglect, cruelty or depravity on the part of its parents, guardian or other person in whose care it may be, is an unfit place for such child.

SEC. 3. Proceedings Concerning a "Dependent" or "Neglected" Child. — Any representative of the Secretary of the Department of Social Welfare who is assigned in the province or city, having knowledge of a child in the province or city who appears to be "dependent" or "neglected" child may file with the Clerk of Court a written petition, setting forth the facts constituting the child "dependent" or "neglected," which petition shall be verified by the affidavit of the petitioner. It shall be sufficient if the affidavit shall be upon information and belief. Such petition shall set forth the name of the parent or parents of such child, if known, and their residence; and if such child has no parent living, then the name and residence of the guardian of such child, if it has one.

Upon the filing of such petition, the judge of the court shall fix the day and time for the hearing of such petition. If it appears that one or both of such parents, or guardian, if there be no parents, reside in the province, the clerk of said court shall immediately issue summons, which shall include a copy of the petition, and which shall be served on such parent, parents, or guardian, if any, if either can be found in the province or city, not less than two (2)

days before the time fixed for said hearing, requiring them to appear on said day and hour to show cause, if any, why such child should not be declared by said court to be a "dependent" or "neglected" child. If it appears from the petition that neither of said parents is living, or do not reside in the province or city and that said child has no guardian residing in said province, or in case one or both of said parents, or the guardian in case there be no parents, shall indorse on said petition a request that the child be declared a "dependent" child, then the summons herein provided for shall not be issued; and the court may thereupon proceed to a hearing of the case. In case neither of the parents or guardian is found, then the court shall appoint some suitable person to represent said child in said case.

Upon the hearing of such case the child shall be brought before said court; whereupon, the court shall investigate the facts, and ascertain whether the child is a "dependent" child, its residence, and, as far as possible, the whereabouts of its parents or near adult relatives, when and how long the child has been maintained in whole or in part, by private or public charity, the occupation of the parents, if living, whether they are supported by the public or have abandoned the child, and to ascertain as far as possible, if the child is found dependent, the cause thereof. The court may compel the attendance of witnesses on such examination. The fiscal, when directed by the court, shall appear in any such examination in behalf of the petitioner. It shall be the duty of the fiscal, upon direction of the court or any petitioner to file a petition and to conduct any necessary proceedings in any case within the provisions of this article.

In hearing the case, the court shall not be bound to follow the technical rules of evidence. If the said child shall be found after such hearing to be a "dependent" or "neglected" child, as defined herein, it shall be adjudged a "dependent" child, and an order may be entered making such disposition of the care and custody of said child as the court deems best for its moral and physical welfare. It may be turned over to the care and custody of any suitable person or any suitable institution in the city or province organized for the purpose of caring for "dependent" children, and which is able and willing to care for same. If there be no such person or suitable institution, the child shall be referred to the Department of Social Welfare. And when such child is so turned over to the custody of such person or institution, such person or institution shall have the right to the custody of said child and shall be responsible for its education and maintenance, subject at all times to the order of the court.

In case the court shall award a "dependent" or "neglected" child to the care of an individual or institution, the child, unless otherwise ordered, shall become a ward and be subject, to the guardianship of the institution or individual to whose care it is committed. An institution or individual receiving such child under the order of the court shall be subject to visitation or inspection by any person appointed by the court for such purpose; and the court may, at any time, require from the institution or person a report containing such information as the court shall deem proper or necessary, to be fully advised as to the care, education, maintenance and moral and physical training of the child, as well as to the standing and ability of such institution or individual to care for the child. The court may change the guardianship of the child, if, at any time, it is made to appear to the court that such change is to the best interests of the child. If, in the opinion of the court, the causes of the dependency of any child may be removed under such conditions or supervision for its care, protection and maintenance as may be imposed by the court, so long as it shall be for its best interests, the child may be permitted to remain in its own home and under the care and control of its own parent, parents or guardian, subject to the jurisdiction and direction of the court. When it shall appear that it is no longer to the best interests of the child to remain with its parents or guardian, the court may proceed to a final disposition of the case.

In case the child is adjudged to be "dependent" or "neglected" then its parents or guardian shall thereafter have no right over or to the custody or services of said child except such condition in the interests of such child as the court may impose, or where, upon proper proceedings, such child may lawfully be restored to the parents or

guardian.

SEC. 4. Proceedings in Other Cases. — In the hearing and disposition of cases other than that covered by the preceding section, the court shall be governed by the Rules of Court and the law properly applicable in each particular case.

In cases between husband and wife, and between parent and child, however, the hearings may be held, upon petition of any party, in chamber or with the exclusion of the public. All information obtained at such hearings shall be deemed privileged and confidential and shall not be divulged without approval of the court.

SEC. 5. Appeal from Decision and Order of the Court. — Decisions and orders of the court shall be appealed in the same manner and subject to the same conditions as appeals from the courts of first instance.

SEC. 6. The Clerks of Court and Subordinate Employees. — The Juvenile and Domestic Relations Courts shall be courts of record and shall each have a clerk of court and such subordinate employees as may be necessary who shall be appointed in the same manner and shall receive the same compensation as similar officials and employees of the court of first instance. The personnel of Branch VIII of the Court of First Instance of Cebu are hereby transferred to the Juvenile and Domestic Relations Court for the Province of Cebu and shall remain in their respective positions and receive their salaries without need of a new appointment. The most senior among the personnel herein transferred, if qualified, shall be designated by the Supreme Court temporarily to act as clerk of court until a permanent one has been appointed.

SEC. 7. Official Station. — The official stations of the Juvenile and Domestic Relations Courts for the Province of Cebu and the Province of Negros Occidental shall be in Cebu City and Bacolod City, respectively, but they may hold sessions in the cities within their respective territorial jurisdiction mentioned in Section 1 of this Decree.

SEC. 8. Transitory Provision. — Upon the organization of the juvenile and Domestic Relations Courts, the Supreme Court shall cause all cases and proceedings pending before any court properly cognizable by the courts herein created to be transferred thereto.

SEC. 9. Appropriations. — The Supreme Court shall likewise cause to be transferred to the juvenile and Domestic Relations Court of the Province of Cebu the equipment and supplies and the unexpended balance of the funds set aside for the salaries of the Presiding judge and the subordinate personnel and for the operating expenses of Branch VIII of the Court of First Instance of Cebu.

The sum of one hundred fifty thousand pesos (P150,000) or so much thereof as may be necessary, is hereby authorized to be set aside and released from the appropriations for the operation of the courts of first instance as provided for in the General Appropriations Decree for the current fiscal year, for the salary and emoluments of the judge and personnel of the Juvenile and Domestic Relations Court of Negros Occidental, and of such other personnel as may be necessary for the Juvenile and Domestic Relations Court of Cebu as well as for the other incidental expenses of the courts.

The sum needed for the operation of the Juvenile and Domestic Relations Courts herein created in subsequent years shall be included in the General Appropriations Decree

SEC. 10. Repealing clause. — Any provision of law, decree, executive order rule or regulation in conflict with, or contrary to this Decree is hereby repealed or modified accordingly.

SEC. 11. Effectivity. — This Decree is hereby made a part of the laws of the land and shall take effect upon its approval.

Done in the City of Manila, this 15th day of March, in the year of Our Lord nineteen hundred and seventy-four.

(Sgd.) FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.) ALEJANDRO MELCHOR

Executive Secretary

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